

and used for noncommercial residential purposes may reserve for himself and his assigns, as a condition to the purchase or acquisition by exchange of such property by the Secretary, a right of use and occupancy of the residence and not in excess of three acres of land on which the residence is situated, for noncommercial residential purposes for a term ending at the death of the owner, or the death of his spouse, or the death of either of them, or, in lieu thereof, for a definite term not to exceed twenty-five years: *Provided*, That the Secretary may exclude from such reserved property any marsh, beach, or waters, together with so much of the land adjoining such marsh, beach, or waters as he deems necessary for public access thereto. The owner shall elect the term of the right to be reserved. The Secretary is authorized to accept donations of property for purposes of the seashore in which a right of use and occupancy for noncommercial residential purposes is reserved for the period stated in this subsection if the land on which the residence is situated and to which the right attaches is not in excess of three acres and there is excluded from the reserved property such marsh, beach, or waters and adjoining land as the Secretary deems necessary for public use and access thereto.

**(d) Termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right**

A right of use and occupancy reserved in lands that are donated or otherwise acquired pursuant to this section shall be subject to termination by the Secretary upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of sections 459g to 459g-7 of this title and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

**(e) Administrative site; landing dock and related approach or access facilities**

The Secretary of the Interior is authorized to purchase with donated or appropriated funds, or acquire by exchange, not to exceed one hundred acres of lands or interests in lands at or near Beaufort, North Carolina, as an administrative site, and for a landing dock and related facilities that may be used to provide a suitable approach or access to the seashore.

(Pub. L. 89-366, § 2, Mar. 10, 1966, 80 Stat. 34; Pub. L. 93-477, title IV, § 406(2), Oct. 26, 1974, 88 Stat. 1448.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-477 substituted provisions relating to acquisition by donation of lands owned by the State of North Carolina and acquisition by donation, purchase or exchange of non-Federal lands, marshlands, etc., and acceptance of lands donated by North Carolina, for provisions relating to acquisition of non-Federal lands, marshlands, etc., by donation only and acquisition by exchange lands comprising the Shackleford Banks.

**§ 459g-2. Establishment; notice in Federal Register; copies to Congress**

When title to lands and interests in lands in an amount sufficient to constitute an efficiently

administerable<sup>1</sup> unit for the purposes of sections 459g to 459g-7 of this title is vested in the United States, the Secretary shall declare the establishment of the seashore by publication of notice thereof in the Federal Register. Such notice shall contain a refined description or map of the boundaries of the seashore as the Secretary may find desirable and such exterior boundaries shall encompass, as nearly as possible, the area generally described in section 459g of this title. Copies of said description or map shall be furnished to the Speaker of the House and the President of the Senate not less than thirty days prior to publication in the Federal Register. Following such establishment, and subject to the limitations and conditions prescribed in sections 459g to 459g-7 of this title, the Secretary may, subject to the provisions of section 459g-1 of this title, acquire the remainder of the lands and interests in lands within the boundaries of the seashore.

(Pub. L. 89-366, § 3, Mar. 10, 1966, 80 Stat. 35; Pub. L. 93-477, title IV, § 406(3), Oct. 26, 1974, 88 Stat. 1448.)

AMENDMENTS

1974—Pub. L. 93-477 substituted “in an amount sufficient to constitute an efficiently administerable [sic] unit for the purposes of sections 459g to 459g-7 of this title” for “which under section 459g-1(a) of this title may be acquired for the purposes of the seashore by donation only”, and “establishment of the seashore by publication” for “establishment of the Cape Lookout National Seashore by publication”.

**§ 459g-3. Hunting and fishing provisions**

The Secretary shall permit hunting and fishing, including shellfishing, on lands, marshlands, and waters under his jurisdiction within the Cape Lookout National Seashore in accordance with the laws of the State of North Carolina and the United States, to the extent applicable, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the North Carolina Wildlife Resources Commission and the North Carolina Department of Conservation and Development.

(Pub. L. 89-366, § 4, Mar. 10, 1966, 80 Stat. 35.)

**§ 459g-4. Administration; public outdoor recreation and enjoyment; utilization of authorities for conservation and development of natural resources**

(a) The Secretary shall administer the Cape Lookout National Seashore for the general purposes of public outdoor recreation, including conservation of natural features contributing to public enjoyment. In the administration of the seashore and the administrative site, the Secretary may utilize such statutory authorities relating to areas administered and supervised by the Secretary through the National Park Serv-

<sup>1</sup> So in original. Probably should be “administrable”.

ice and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of sections 459g to 459g-7 of this title.

(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of not less than 110 free roaming horses, with a target population of between 120 and 130 free roaming horses, in Cape Lookout National Seashore (hereinafter referred to as the "Seashore"): *Provided*, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).

(2) Within 180 days after July 16, 1998, the Secretary shall enter into an agreement with the Foundation for Shackelford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—

(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and

(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.

(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—

(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or

(B) unless removal is carried out as part of a plan to maintain the viability of the herd; or

(C) except in the case of an emergency, or to protect public health and safety.

(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore.

(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 110 as a result of natural causes, including, but not limited to, disease or natural disasters.

(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore.

(Pub. L. 89-366, § 5, Mar. 10, 1966, 80 Stat. 35; Pub. L. 105-202, § 2, July 16, 1998, 112 Stat. 676; Pub. L. 105-229, § 1, Aug. 13, 1998, 112 Stat. 1517; Pub. L. 109-117, § 1, Dec. 1, 2005, 119 Stat. 2526.)

#### AMENDMENTS

2005—Subsec. (a). Pub. L. 109-117, § 1(b)(1), struck out "(a)" after "(a)".

Subsec. (b). Pub. L. 109-117, § 1(b)(2), struck out the subsec. (b) added by Pub. L. 105-229, which was identical to the subsec. (b) added by Pub. L. 105-202.

Subsec. (b)(1). Pub. L. 109-117, § 1(a)(1), substituted "not less than 110 free roaming horses, with a target population of between 120 and 130 free roaming horses," for "100 free roaming horses".

Subsec. (b)(3)(B). Pub. L. 109-117, § 1(a)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: "unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or".

Subsec. (b)(5). Pub. L. 109-117, § 1(a)(3), substituted "110" for "100".

1998—Pub. L. 105-229 directed an amendment identical to that in Pub. L. 105-202 resulting in the insertion of "(a)" before "(a)" in subsec. (a) and the addition of a second, identical subsec. (b).

Pub. L. 105-202 designated existing provisions as subsec. (a) and added subsec. (b).

#### § 459g-5. Shore erosion control or beach protection measures

The authority of the Chief of Engineers, Department of the Army, to undertake or contribute to shore erosion control or beach protection measures within the Cape Lookout National Seashore shall be exercised in accordance with a plan that is mutually acceptable to the Secretary of the Interior and the Secretary of the Army, and that is consistent with the purposes of sections 459g to 459g-7 of this title.

(Pub. L. 89-366, § 6, Mar. 10, 1966, 80 Stat. 35.)

#### § 459g-6. Preservation and designation as wilderness; review of area by Secretary; report to President

On or before January 1, 1978, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or unsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title.

(Pub. L. 89-366, § 7, Mar. 10, 1966, 80 Stat. 35; Pub. L. 93-477, title IV, § 406(4), Oct. 26, 1974, 88 Stat. 1449.)

#### AMENDMENTS

1974—Pub. L. 93-477 substituted provisions authorizing review of area and report to the President by the Secretary with regard to suitability of area for preservation as wilderness for provisions authorizing appropriations.

#### § 459g-7. Authorization of appropriations; master plan to Congressional committees; time; contents

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 459g to 459g-7 of this title, not to exceed \$13,903,000 for acquisition of lands and interests therein, of which no more than \$1,000,000 may be expended for acquisition of lands owned by Core Banks Club Properties, Incorporated. For development of essential public facilities there are authorized to be appropriated not more than \$2,935,000. On or before January 1, 1978, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the