

or administration of the seashore, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for non-commercial residential purposes for a definite term not to exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, whichever is the later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

**(b) Termination of use and occupancy upon inconsistent use; tender of compensation**

The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of sections 459j to 459j-8 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.

**(c) "Improved property" defined**

The term "improved property", as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1971 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures, necessary to the dwelling which are situated on the land so designated.

**(d) Condemnation as means for acquiring clear and marketable title**

Except as otherwise provided, the Secretary shall have the authority to use condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(Pub. L. 93-626, §3, Jan. 3, 1975, 88 Stat. 2123.)

**§ 459j-3. Designation of hunting, fishing and trapping zones; regulations; consultation with appropriate State agencies**

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the seashore in accordance with the appropriate laws of the State of Florida and the United States to the extent applicable, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish and wildlife management, public use and enjoyment, protection of the resource, or competing public use. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(Pub. L. 93-626, §4, Jan. 3, 1975, 88 Stat. 2123.)

**§ 459j-4. Administration, protection, and development**

**(a) Conservation and management of natural resources**

The seashore shall be administered, protected, and developed in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4),<sup>1</sup> as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459j to 459j-8 of this title.

**(b) Administration of lands in Merritt Island National Wildlife Refuge**

Notwithstanding any other provisions of sections 459j to 459j-8 of this title, lands and waters in the Merritt Island National Wildlife Refuge as described in subsection (c)(2) of this section which are part of the seashore shall be administered for refuge purposes through the United States Fish and Wildlife Service pursuant to the National Wildlife Refuge System Administration Act, as amended (80 Stat. 926; 16 U.S.C. 668dd-668ee), except that the Secretary may utilize such additional authority as may be available to him for the conservation and management of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate, consistent with the preservation of natural and wildlife values.

**(c) Division of management authority between National Park Service and United States Fish and Wildlife Service**

The Secretary shall cause to be issued a well defined division of management authority between the National Park Service and the United States Fish and Wildlife Service. It is the intent and purpose of sections 459j to 459j-8 of this title that such management authority, generally, shall be as follows:

(1) The National Park Service shall administer those lands and waters described as follows: beginning at the intersection of State Highway 3 and State Road 402; thence easterly along State Road 402 and continuing easterly in a straight line to a point one-half mile offshore in the Atlantic Ocean, following the southern boundary of the seashore created in section 1; thence northwesterly along the boundary of the seashore created in section 1, which line is at each point one-half mile distance from the high water mark, to Bethune Beach; thence inland in a generally, westerly direction through Turner Flats and Shipyard Canal; thence northwesterly to the Intracoastal Waterway; thence southerly along the Intracoastal Waterway to the boundary of the Kennedy Space Center; then southwestwardly to United States Highway 1; thence southerly along State Highway 3 to the northern boundary of H. M. Gomez Grant; thence easterly along the northern boundary of H. M. Gomez Grant and continuing easterly in a straight line to a point

<sup>1</sup> See References in Text note below.

of intersection with the line between the marsh and the dunes; thence southerly along the line between the marsh and the dunes to a point approximately one-half mile north of the southern boundary of the seashore created in section 1; thence westerly in a straight line to connect with and to follow the Government Railroad to its intersection with State Highway 3; thence southerly along State Highway 3 to the point of beginning. The portion of land bounded by the northern boundary of the H. M. Gomez Grant is hereby transferred to the Secretary of the Interior and may be used for the purpose of establishing such facilities as are needed for the administration of the seashore, for the construction of the principal visitor center which shall be designated as the "Spessard L. Holland Visitor Center", and for a central access to the seashore: *Provided, however*, That the Secretary of the Interior, upon the request of the Administrator of the National Aeronautics and Space Administration, shall close this area or any part thereof to the public when necessary for space operations. In administering the shoreline and adjacent lands the Secretary shall retain such lands in their natural and primitive condition, shall prohibit vehicular traffic on the beach except for administrative purposes, and shall develop only those facilities which he deems essential for public health and safety.

(2) The United States Fish and Wildlife Service shall administer the remaining lands described in section 459j of this title.

(Pub. L. 93-626, § 5, Jan. 3, 1975, 88 Stat. 2123.)

#### REFERENCES IN TEXT

The Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), referred to in subsec. (a), is act Aug. 25, 1916, ch. 408, 39 Stat. 535, known as the National Park Service Organic Act, which enacted sections 1, 2, 3, and 4 of this title and provisions set out as a note under section 100101 of Title 54, National Park Service and Related Programs. Sections 1 to 4 of the Act were repealed and restated as section 1865(a) of Title 18, Crimes and Criminal Procedure, and section 100101(a), chapter 1003, and sections 100751(a), 100752, 100753, and 102101 of Title 54 by Pub. L. 113-287, §§ 3, 4(a)(1), 7, Dec. 19, 2014, 128 Stat. 3094, 3260, 3272. For complete classification of this Act to the Code, see Tables. For disposition of former sections of this title, see Disposition Table preceding section 100101 of Title 54.

The National Wildlife Refuge System Administration Act, as amended, referred to in subsec. (b), consists of sections 4 and 5 of Pub. L. 89-669, Oct. 15, 1966, 80 Stat. 927, as amended, and is classified to sections 668dd, 668ee of this title. For further details, see Short Title note set out under section 668dd of this title.

#### CLOTHING-OPTIONAL AREAS PROHIBITED

Pub. L. 108-108, title I, § 126, Nov. 10, 2003, 117 Stat. 1269, provided that: "None of the funds made available in this or any other Act for any fiscal year may be used to designate, or to post any sign designating, any portion of Canaveral National Seashore in Brevard County, Florida, as a clothing-optional area or as an area in which public nudity is permitted, if such designation would be contrary to county ordinance."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-7, div. F, title I, § 128, Feb. 20, 2003, 117 Stat. 242.

Pub. L. 107-63, title III, § 313, Nov. 5, 2001, 115 Stat. 467.

Pub. L. 106-291, title III, § 316, Oct. 11, 2000, 114 Stat. 989.

Pub. L. 106-113, div. B, § 1000(a)(3) [title III, § 317], Nov. 29, 1999, 113 Stat. 1535, 1501A-192.

Pub. L. 105-277, div. A, § 101(e) [title III, § 318], Oct. 21, 1998, 112 Stat. 2681-231, 2681-289.

Pub. L. 105-83, title III, § 328, Nov. 14, 1997, 111 Stat. 1600.

#### § 459j-5. Canaveral National Seashore Advisory Commission

##### (a) Establishment; duties; termination; membership; term of members; appointment; Chairman

There is hereby established the Canaveral National Seashore Advisory Commission which shall consult and advise with the Secretary on all matters of planning, development, and operation of the seashore and shall provide such other advice and assistance as may be useful in carrying out the purposes of sections 459j to 459j-8 of this title. The Commission shall terminate ten years after the date the seashore is established pursuant to sections 459j to 459j-8 of this title, unless extended by the Congress. The Commission shall be composed of six members who shall serve for terms of two years. Members shall be appointed by the Secretary, one of whom he shall designate as Chairman, in the following manner:

(1) one member from each county in which the seashore is located, to be selected from recommendations made by the county commission in each county;

(2) two members representing the State of Florida who shall be selected from recommendations made by the Governor of Florida; and

(3) two members representing the general public: *Provided*, That one member shall be appointed from each county in which the seashore is located.

##### (b) Meetings; vacancies

After the Secretary designates the member to be Chairman, the Commission may meet as often as necessary at the call of the Chairman or of the Secretary, or upon petition of a majority of the members of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

##### (c) Compensation; payment of expenses upon vouchers

Members of the Commission shall serve without compensation, as such, but the Secretary may pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this section.

(Pub. L. 93-626, § 6, Jan. 3, 1975, 88 Stat. 2124; Pub. L. 94-398, Sept. 4, 1976, 90 Stat. 1204.)

#### AMENDMENTS

1976—Subsec. (a). Pub. L. 94-398 substituted "six members" for "five members" in introductory provisions and substituted "two" for "one" and inserted requirement relating to residency of each member in cl. (3).

##### § 459j-6. Transfer of lands for use as administrative and visitor facilities to Secretary of the Interior; use of portion of John F. Kennedy Space Center; transfer of excess land within seashore to Secretary of the Interior

On January 3, 1975, those lands to be used for the administrative and visitor facilities de-