

preservation and development of lakeshore areas and in event of nonconforming variances, to terminate suspension of his authority to acquire improved property by condemnation.

§ 460u-5. Owner's retention of right of use and occupancy for residential purposes

(a) Election; conveyance or lease of right; adjustment of compensation; retained rights

(1) Except for owners described in paragraph (2) and owners of improved property within the area on the map referred to in section 460u-3 of this title, dated December 1980, and numbered 626-91014, as area II-B, any owner or owners of record of improved property may retain a right of use and occupancy of said improved property for noncommercial residential purposes for a term (A) ending on his or her death or the death of his or her spouse, whichever occurs last, or (B) for a fixed term not to extend beyond September 30, 2010, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary. In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014 the retention of a retained right under clause numbered (A) shall only be available to homeowners of record as of October 1, 1980, who have attained the age of majority as of that date and make a bona fide written offer not later than October 1, 1985, to sell to the Secretary. Where any such owner retains a right of use and occupancy as herein provided, such right during its existence may be conveyed or leased for noncommercial residential purposes. 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.

(2)(A) In the case of property included within the boundaries of the lakeshore after 1980, any owner or owners of record of improved property may retain a right of use and occupancy for noncommercial residential purposes for a term ending at either of the following:

(i) A fixed term not to extend beyond September 30, 2010, or such lesser fixed term as the owner or owners may elect at the time of acquisition.

(ii) A term ending at the death of any owner or of a spouse of any owner, whichever occurs last.

The owner shall elect the term to be reserved.

(B) The retention of rights under subparagraph (A) shall be available only to individuals who are homeowners of record as of July 1, 1986, who have attained the age of majority as of that date and who make a bona fide written offer not later than July 1, 1991, to sell to the Secretary.

(3)(A) In the case of improved property included within the boundaries of the lakeshore after October 1, 1991, that was not included within such boundaries on or before that date, an individual who is an owner of record of such property may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a term ending, subject to subparagraph (B), at either of the following:

(i) A fixed term not to extend beyond October 1, 2020, or such lesser fixed term as the owner may elect at the time of acquisition.

(ii) A term ending at the death of the owner or the owner's spouse, whichever occurs later. The owner or owners shall elect the term to be reserved.

(B) Subparagraph (A)(ii) shall apply only to improved property owned by an individual who—

(i) was an owner of record of the property as of October 1, 1991;

(ii) had attained the age of majority as of that date; and

(iii) made a bona fide written offer not later than October 1, 1997, to sell the property to the Secretary.

(b) Termination of use and occupancy; pre-October 18, 1976, standards of use and occupancy to remain in effect

Upon his determination that the property, or any portion thereof, has ceased to be used in accordance with the applicable terms and conditions, the Secretary may terminate a right of use and occupancy. Nonpayment of property taxes, validly assessed, on any retained right of use and occupancy shall also be grounds for termination of such right by the Secretary. In the event the Secretary terminates a right of use and occupancy under this subsection he shall pay to the owners of the retained right so terminated an amount equal to the fair market value of the portion of said right which remained unexpired on the date of termination. With respect to any right of use and occupancy in existence on the effective date of this sentence, standards for retention of such rights in effect at the time such rights were reserved shall constitute the terms and conditions referred to in section 460u-3 of this title.

(c) Extension of use and occupancy rights

With respect to improved properties acquired prior to December 28, 1980, and upon which a valid existing right of use and occupancy has been reserved for a term of not more than twenty years, the Secretary may, in his discretion, extend the term of such retained right for a period of not more than nine years upon receipt of payment prior to September 30, 1983, from the holder of the retained right. The amount of such payment shall be equivalent to the amount discounted from the purchase price paid by the Secretary for the identical period of time under the terms of the original sale adjusted by a general index adopted by the Secretary reflecting overall value trends within Indiana Dunes National Lakeshore between the time of the original sale and the time of the retained right of extension offered by this subsection.

(Pub. L. 89-761, § 5, formerly § 6, Nov. 5, 1966, 80 Stat. 1311; renumbered § 5 and amended Pub. L. 94-549, § 1(4), (9), Oct. 18, 1976, 90 Stat. 2529, 2533; Pub. L. 96-612, § 1(6), (7), Dec. 28, 1980, 94 Stat. 3576; Pub. L. 99-583, § 1(c), Oct. 29, 1986, 100 Stat. 3319; Pub. L. 102-430, § 4(b), (c), Oct. 23, 1992, 106 Stat. 2208, 2209; Pub. L. 105-277, div. A, § 101(e) [title I, § 141], Oct. 21, 1998, 112 Stat. 2681-231, 2681-266.)

REFERENCES IN TEXT

The effective date of this sentence, referred to in subsec. (b), probably refers to the date of enactment of Pub. L. 94-549, which was approved Oct. 18, 1976.

PRIOR PROVISIONS

A prior section 5 of Pub. L. 89-761 was classified to section 460u-4 of this title, prior to repeal by Pub. L. 94-549, §1(9).

AMENDMENTS

1998—Subsec. (a)(3)(A). Pub. L. 105-277, §101(e) [title I, §141(1)], in introductory provisions, struck out “as of that date” after “record of such property” and inserted “, subject to subparagraph (B),” after “term ending”.

Subsec. (a)(3)(B). Pub. L. 105-277, §101(e) [title I, §141(2)], substituted “Subparagraph (A)(ii)” for “Subparagraph (A)” in introductory provisions.

1992—Subsec. (a)(1). Pub. L. 102-430, §4(c), substituted a comma for a period after first reference to “626-91014”.

Subsec. (a)(3). Pub. L. 102-430, §4(b), added par. (3).

1986—Subsec. (a). Pub. L. 99-583 designated existing provisions as par. (1), inserted “owners described in paragraph (2) and” and substituted reference to the map referred to in section 460u-3 of this title for reference to the map referred to in section 460u of this title, “(A)” for “(1)” in two places, “(B)” for “(2)”, and “. In the case of improved property within the boundaries of the map dated December 1980 and numbered 626-91014” for “: *Provided, That*”, and added par. (2).

1980—Subsec. (a). Pub. L. 96-612, §1(6), substituted provisions authorizing certain owners of improved property, except such owners within area II-B, to retain rights of use and occupancy of such property for noncommercial residential purposes for a term either ending at death or at a specified date no later than September 30, 2010, for provisions authorizing certain owners of similar property to retain such rights for similar purposes for a fixed term of twenty years or less, as elected, authorizing the conveyance or leasing of such rights, and specifying the formula for reimbursing such owners upon acquisition of such property by the Secretary.

Subsec. (c). Pub. L. 96-612, §1(7), added subsec. (c).

1976—Subsec. (a). Pub. L. 94-549, §1(4)(a), provided that owners within unit II-B on the map referred to in section 460u of this title be excluded from use and occupancy rights, that owners attain the age of majority to be eligible to retain use and occupancy rights, and that the maximum term that an owner may retain use and occupancy rights be reduced to twenty years from twenty-five years.

Subsec. (b). Pub. L. 94-549, §1(4)(b), substituted provision requiring failure of property to be used in accordance with the terms and applicable conditions as grounds for termination by the Secretary for provision which required failure of the property to be used in accordance with applicable zoning standards, added nonpayment of property taxes as a ground for termination, and provided that the standards for right of use and occupancy applicable prior to Oct. 18, 1976 remain in effect for such right, including applicable zoning regulations.

§ 460u-6. Administration

(a) Utilization of authorities for conservation and management of natural resources

In the administration of the lakeshore the Secretary may utilize such statutory authorities relating to areas of the national park system and such statutory authority otherwise available to him for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this subchapter.

(b) Preservation of lakeshore; incompatible visitor conveniences restricted; provisions for public enjoyment and understanding; developments for public uses

In order that the lakeshore shall be permanently preserved in its present state, no develop-

ment or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing or with the preservation of such historic sites and structures as the Secretary may designate: *Provided*, That the Secretary may provide for the public enjoyment and understanding of the unique natural, historic, and scientific features within the lakeshore by establishing such trails, observation points, and exhibits and providing such services as he may deem desirable for such public enjoyment and understanding: *Provided further*, That the Secretary may develop for appropriate public uses such portions of the lakeshore as he deems especially adaptable for such uses.

(Pub. L. 89-761, §6, formerly §7, Nov. 5, 1966, 80 Stat. 1311; renumbered §6, Pub. L. 94-549, §1(9), Oct. 18, 1976, 90 Stat. 2533.)

PRIOR PROVISIONS

A prior section 6 of Pub. L. 89-761 was renumbered section 5 and is classified to section 460u-5 of this title.

§ 460u-7. Indiana Dunes National Lakeshore Advisory Commission**(a) Establishment; termination**

There is hereby established an Indiana Dunes National Lakeshore Advisory Commission. Said Commission shall terminate on September 30, 1985.

(b) Membership; appointment; term of office; recommendation or designation of appointees

The Commission shall be composed of thirteen members, each appointed for a term of two years by the Secretary, as follows: (1) one member who is a year-round resident of Porter County to be appointed from recommendations made by the commissioners of such county; (2) one member who is a year-round resident of the town of Beverly Shores to be appointed from the recommendations made by the board of trustees of such town; (3) one member who is a year-round resident of the towns of Porter, Dune Acres, Pines, Chesterton, Ogden Dunes, or the village of Tremont, such member to be appointed from recommendations made by the boards of trustees or the trustee of the affected town or township; (4) two members who are year-round residents of the city of Michigan City to be appointed from recommendations made by such city; (5) two members to be appointed from recommendations made by the Governor of the State of Indiana; (6) one member to be designated by the Secretary; (7) two members who are year-round residents of the city of Gary to be appointed from recommendations made by the mayor of such city; (8) one member to be appointed from recommendations made by a regional planning agency established under the authority of the laws of the State of Indiana and composed of representatives of local and county governments in northwestern Indiana; (9) one member who is a year-round resident of the city of Portage to be appointed from recommendations made by the mayor of such city; and (10) one member who holds a reservation of use and occupancy and is a year-round resident within the lakeshore to be designated by the Secretary.