

year in connection with an enhanced-use lease shall be deducted from the proceeds of the lease for that fiscal year and may be used by the Secretary to reimburse the account from which the funds were used to pay such expenses. The Secretary may use the proceeds from any enhanced-use lease to reimburse applicable appropriations of the Department for any expenses incurred in the development of additional enhanced-use leases.

(Added Pub. L. 102-86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 421; amended Pub. L. 106-117, title II, §208(d), Nov. 30, 1999, 113 Stat. 1568; Pub. L. 107-217, §3(j)(6), Aug. 21, 2002, 116 Stat. 1301; Pub. L. 108-7, div. K, title I, §113(d)(1), Feb. 20, 2003, 117 Stat. 483; Pub. L. 108-170, title II, §202(c), Dec. 6, 2003, 117 Stat. 2048; Pub. L. 108-178, §4(i)(2), Dec. 15, 2003, 117 Stat. 2642; Pub. L. 108-422, title IV, §411(e)(4), Nov. 30, 2004, 118 Stat. 2390; Pub. L. 112-154, title II, §211(f), Aug. 6, 2012, 126 Stat. 1181.)

#### AMENDMENTS

2012—Subsec. (a)(2). Pub. L. 112-154 substituted “into the Department of Veterans Affairs Construction, Major Projects account or Construction, Minor Projects account, as the Secretary considers appropriate” for “in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title”.

2004—Subsec. (a)(2). Pub. L. 108-422 substituted “Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title” for “nursing home revolving fund”.

2003—Subsec. (a)(1). Pub. L. 108-7 substituted “Department of Veterans Affairs Medical Care Collections Fund established under section 1729A of this title” for “Department of Veterans Affairs Health Services Improvement Fund established under section 1729B of this title”.

Subsec. (a)(2). Pub. L. 108-170, §202(c)(1), struck out “and remaining after any deduction from such funds under the laws referred to in subsection (c)” after “title”.

Subsec. (b). Pub. L. 108-170, §202(c)(2), inserted at end “The Secretary may use the proceeds from any enhanced-use lease to reimburse applicable appropriations of the Department for any expenses incurred in the development of additional enhanced-use leases.”

Subsec. (c). Pub. L. 108-178 struck out comma after “of title 40”.

Pub. L. 108-170, §202(c)(3), struck out subsec. (c) which read as follows: “Subsection (a) does not affect the applicability of subchapter IV of chapter 5 of title 40 with respect to reimbursement of the Administrator of General Services for expenses arising from any disposal of property under section 8164 of this title.”

2002—Subsec. (c). Pub. L. 107-217 substituted “subchapter IV of chapter 5 of title 40” for “section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) or the Act of June 8, 1896 (40 U.S.C. 485a)”.

1999—Subsec. (a)(1). Pub. L. 106-117 added par. (1) and struck out former par. (1) which read as follows: “Of the funds received by the Department under an enhanced-use lease and remaining after any deduction from such funds under subsection (b), 75 percent shall be deposited in the nursing home revolving fund established under section 8116 of this title and 25 percent shall be credited to the Medical Care Account of the Department for the use of the Department facility at which the property is located.”

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-178 effective Aug. 21, 2002, see section 5 of Pub. L. 108-178, set out as a note under

section 5334 of Title 5, Government Organization and Employees.

#### § 8166. Construction standards

The construction, alteration, repair, remodeling, or improvement of a property that is the subject of an enhanced-use lease shall be carried out so as to comply with all applicable provisions of Federal, State, and local law relating to land use, building standards, permits, and inspections.

(Added Pub. L. 102-86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 421; amended Pub. L. 108-422, title IV, §417, Nov. 30, 2004, 118 Stat. 2393; Pub. L. 112-154, title II, §211(g), Aug. 6, 2012, 126 Stat. 1181.)

#### AMENDMENTS

2012—Pub. L. 112-154 amended section generally. Prior to amendment, section read as follows:

“(a) Unless the Secretary provides otherwise, the construction, alteration, repair, remodeling, or improvement of the property that is the subject of the lease shall be carried out so as to comply with all standards applicable to construction of Federal buildings. Any such construction, alteration, repair, remodeling, or improvement shall not be subject to any State or local law relating to land use, building codes, permits, or inspections unless the Secretary provides otherwise.

“(b) Unless the Secretary has provided that Federal construction standards are not applicable to a property, the Secretary shall conduct periodic inspections of any such construction, alteration, repair, remodeling, or improvement for the purpose of ensuring that the standards are met.”

2004—Subsec. (a). Pub. L. 108-422 inserted “land use,” after “relating to” in second sentence.

#### § 8167. Exemption from State and local taxes

(a) IMPROVEMENTS AND OPERATIONS NOT EXEMPTED.—The improvements and operations on land leased by a person with an enhanced-use lease from the Secretary shall be subject to all applicable provisions of Federal, State, or local law relating to taxation, fees, and assessments.

(b) UNDERLYING FEE TITLE INTEREST EXEMPTED.—The underlying fee title interest of the United States in any land subject to an enhanced-use lease shall not be subject, directly or indirectly, to any provision of State or local law relating to taxation, fees, or assessments.

(Added Pub. L. 102-86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 421; amended Pub. L. 112-154, title II, §211(h), Aug. 6, 2012, 126 Stat. 1181.)

#### AMENDMENTS

2012—Pub. L. 112-154 amended section generally. Prior to amendment, section read as follows: “The interest of the United States in any property subject to an enhanced-use lease and any use by the United States of such property during such lease shall not be subject, directly or indirectly, to any State or local law relative to taxation, fees, assessments, or special assessments, except sales taxes charged in connection with any construction, alteration, repair, remodeling, or improvement project carried out under the lease.”

#### § 8168. Annual reports

(a) REPORT ON ADMINISTRATION OF LEASES.—(1) Not later than 120 days after the date of the enactment of the Honoring America's Veterans and Caring for Camp Lejeune Families Act of

2012 and not less frequently than once each year thereafter, the Secretary shall submit to the congressional veterans' affairs committees, the Committees on Appropriations of the House of Representatives and the Senate, and the Committees on the Budget of the House of Representatives and the Senate a report on enhanced-use leases.

(2) Each report under paragraph (1) shall include the following:

(A) Identification of the actions taken by the Secretary to implement and administer enhanced-use leases.

(B) For the most recent fiscal year covered by the report, the amounts deposited into the Medical Care Collection Fund account that were derived from enhanced-use leases.

(C) Identification of the actions taken by the Secretary using the amounts described in subparagraph (B).

(D) Documents of the Department supporting the contents of the report described in subparagraphs (A) through (C).

(b) REPORT ON LEASE CONSIDERATION.—(1) Each year, as part of the annual budget submission of the President to the congressional veterans' affairs committees, the Committees on Appropriations of the House of Representatives and the Senate, and the Committees on the Budget of the House of Representatives and the Senate under section 1105(a) of title 31, the Secretary shall submit to the congressional veterans' affairs committees, the Committees on Appropriations of the House of Representatives and the Senate, and the Committees on the Budget of the House of Representatives and the Senate a detailed report of the consideration received by the Secretary for each enhanced-use lease under this subchapter.

(2) Each report under paragraph (1) shall include the following with respect to each enhanced-use lease covered by the report:

(A) An overview of how the Secretary is using consideration received by the Secretary under the lease to support veterans.

(B) The amount of consideration received by the Secretary under the lease.

(C) The amount of any revenues collected by the Secretary relating to the lease not covered by subparagraph (B), including a description of any in-kind assistance or services provided by the lessee to the Secretary or to veterans under an agreement entered into by the Secretary pursuant to any provision of law.

(D) The costs to the Secretary of carrying out the lease.

(E) Documents of the Department supporting the contents of the report described in subparagraphs (A) through (D).

(Added Pub. L. 112—154, title II, §211(i)(1), Aug. 6, 2012, 126 Stat. 1181; amended Pub. L. 114—226, §3(c)(2), Sept. 29, 2016, 130 Stat. 931.)

#### REFERENCES IN TEXT

The date of the enactment of the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, referred to in subsec. (a)(1), is the date of enactment of Pub. L. 112—154, which was approved Aug. 6, 2012.

#### PRIOR PROVISIONS

A prior section 8168, added Pub. L. 102—86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 421, limited number of

enhanced-use leases that could be entered into under this subchapter, prior to repeal by Pub. L. 105—114, title II, §205(b)(1), Nov. 21, 1997, 111 Stat. 2288.

#### AMENDMENTS

2016—Pub. L. 114—226, §3(c)(2)(A), substituted “to the congressional veterans' affairs committees, the Committees on Appropriations of the House of Representatives and the Senate, and the Committees on the Budget of the House of Representatives and the Senate” for “to Congress” wherever appearing.

Subsec. (a). Pub. L. 114—226, §3(c)(2)(B), designated existing provisions as par. (1), substituted “a report on enhanced-use leases.” for “a report identifying the actions taken by the Secretary to implement and administer enhanced-use leases.”, and added par. (2).

Subsec. (b). Pub. L. 114—226, §3(c)(2)(C), designated existing provisions as par. (1), substituted “this subchapter.” for “this subchapter, along with an overview of how the Secretary is utilizing such consideration to support veterans.”, and added par. (2).

#### ELEMENTS OF INITIAL REPORT

Pub. L. 112—154, title II, §211(i)(2), Aug. 6, 2012, 126 Stat. 1182, provided that: “The first report submitted by the Secretary under section 8168(a) of title 38, United States Code, as added by paragraph (1) [and prior to amendment by Pub. L. 114—226], shall include a summary of those measures the Secretary is taking to address the following recommendations from the February 9, 2012, audit report of the Department of Veterans Affairs Office of Inspector General on enhanced-use leases under subchapter V of chapter 81 of title 38, United States Code:

“(A) Improve standards to ensure complete lease agreements are negotiated in line with strategic goals of the Department of Veterans Affairs.

“(B) Institute improved policies and procedures to govern activities such as monitoring enhanced-use lease projects and calculating, classifying, and reporting on enhanced-use lease benefits and expenses.

“(C) Recalculate and update enhanced-use lease expenses and benefits reported in the most recent Enhanced-Use Lease Consideration Report of the Department.

“(D) Establish improved oversight mechanisms to ensure major enhanced-use lease project decisions are documented and maintained in accordance with policy.

“(E) Establish improved criteria to measure timeliness and performance in enhanced-use lease project development and execution.

“(F) Establish improved criteria and guidelines for assessing projects to determine whether they are or remain viable candidates for enhanced-use leases.”

#### § 8169. Expiration

The authority of the Secretary to enter into enhanced-use leases under this subchapter expires on December 31, 2023.

(Added Pub. L. 102—86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 422; amended Pub. L. 103—452, title I, §103(d), Nov. 2, 1994, 108 Stat. 4786; Pub. L. 104—110, title I, §101(k), Feb. 13, 1996, 110 Stat. 769; Pub. L. 105—114, title II, §205(a), Nov. 21, 1997, 111 Stat. 2288; Pub. L. 106—117, title II, §208(e), Nov. 30, 1999, 113 Stat. 1568; Pub. L. 112—154, title II, §211(j), Aug. 6, 2012, 126 Stat. 1182.)

#### AMENDMENTS

2012—Pub. L. 112—154 substituted “December 31, 2023” for “December 31, 2011”.

1999—Pub. L. 106—117 substituted “December 31, 2011” for “December 31, 2001”.

1997—Pub. L. 105—114 substituted “December 31, 2001” for “December 31, 1997”.

1996—Pub. L. 104—110 substituted “December 31, 1997” for “December 31, 1995”.