

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

**§ 459g. Cape Lookout National Seashore; purposes; authorization for establishment; description of area**

In order to preserve for public use and enjoyment an area in the State of North Carolina possessing outstanding natural and recreational values, there is hereby authorized to be established the Cape Lookout National Seashore (hereinafter referred to as "seashore"), which shall comprise the lands and adjoining marshlands and waters on the outer banks of Carteret County, North Carolina, between Ocracoke Inlet and Beaufort Inlet, as generally depicted on the map entitled "Boundary Map, Cape Lookout National Seashore", dated March 1974, and numbered 623-20,009, which is on file in the Office of the National Park Service, Department of the Interior.

(Pub. L. 89-366, §1, Mar. 10, 1966, 80 Stat. 33; Pub. L. 93-477, title IV, §406(1), Oct. 26, 1974, 88 Stat. 1448.)

AMENDMENTS

1974—Pub. L. 93-477 substituted "Boundary Map, Cape Lookout National Seashore", dated March 1974, and numbered 623-20,009" for "'Proposed Boundaries—Proposed Cape Lookout National Seashore', dated April 1964, and numbered NS-CL-7101-B", and struck out proviso relating to certain property not to be included in seashore.

**§ 459g-1. Acquisition of property**

**(a) Transfer from Federal agency to administrative jurisdiction of Secretary; non-Federal lands**

Notwithstanding any other provision of law, Federal property located within the boundaries of the Cape Lookout National Seashore may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary of the Interior for the purposes of the seashore. Such transfer shall be made without transfer of funds. Lands owned by the State of North Carolina or any political subdivision thereof may be acquired only by donation, but the Secretary may, subject to the provisions of section 459g-6 of this title, acquire any other non-Federal lands, marshlands, waters, or interests therein which are located within the boundaries of the seashore by donation, purchase with donated or appropriated funds, or exchange. Notwithstanding any other provision of law, the Secretary may accept any lands donated by the State of North Carolina subject to a provision for reversion to the State conditioned upon continued use of the property for national seashore purposes. Land donated by the State of North Carolina pursuant to this subsection shall constitute consideration for the transfer by the United States of 1.5 acres of land that is to be used as a site for a public health facility in the village of Hatteras, Dare County, North Carolina.

**(b) Exchange of property; cash equalization payments**

When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and convey to the grantor of such property any federally owned property in the State of North Carolina under his jurisdiction which he classifies as proper for exchange or other disposition. Failing to effectuate an exchange of properties of approximately equal fair market value, the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

**(c) Owner's reservation of right of use and occupancy for residential purposes for life or fixed term of years; exclusion of property necessary for public use and access; election of term**

Any person who on January 1, 1966, owned property which on July 1, 1963, was developed 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 administrable<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 administrable [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 Service 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 Shackleford 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.

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