

§ 410jj-3. Acquisition of lands and interests

(a) State- or locally-owned lands; manner of acquisition

Within the boundary of the park, the Secretary is authorized to acquire those lands owned by the State of Hawaii or any political subdivision thereof only by donation or exchange, and only with the consent of the owner. Any such exchange shall be accomplished in accordance with the provisions of section 102901(b) and (c) of title 54. Any property conveyed to the State or a political subdivision thereof in exchange for property within the park which is held in trust for the benefit of Native Hawaiians, as defined in the Hawaiian Homes Commission Act of 1920 shall, as a matter of Federal law, be held by the grantee subject to an equitable estate of the same class and degree as encumbers the property within the preserve; and “available lands” defined in section 203 of the Hawaiian Homes Commission Act may be exchanged in accordance with section 204 of said Act. The vesting of title in the United States to property within the park shall operate to extinguish any such equitable estate with respect to property acquired by exchange within the park. The Secretary may lease from the Department of Hawaiian Home Lands said trust lands until such time as said lands may be acquired by exchange as set forth herein or otherwise acquired. The Secretary may enter into such a lease without regard to fiscal year limitations.

(b) Privately-owned lands; manner of acquisition

The Secretary is authorized to acquire privately-owned lands within the boundary of the park by donation, purchase with donated or appropriated funds, or exchange.

(c) Lands outside of boundary of park and other units of National Park System within State; manner of acquisition

The Secretary is authorized to acquire by any of the foregoing methods except condemnation, lands, waters, and interests therein outside the boundary of the park and outside the boundaries of any other unit of the National Park System but within the State of Hawaii, and to convey the same to the Department of Hawaiian Home Lands in exchange for lands, waters, and interests therein within the park owned by that Department. Any such exchange shall be accomplished in accordance with the provisions defined in subsection (a) of this section.

(Pub. L. 96-565, title I, §104, Dec. 22, 1980, 94 Stat. 3321; Pub. L. 100-202, §101(g) [title I, §100], Dec. 22, 1987, 101 Stat. 1329-213, 1329-220.)

REFERENCES IN TEXT

The Hawaiian Homes Commission Act of 1920, referred to in subsec. (a), probably means the Hawaiian Homes Commission Act, 1920, act July 9, 1921, ch. 42, 42 Stat. 108, as amended, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code.

CODIFICATION

In subsec. (a), “sections 102901(b) and (c) of title 54” substituted for “sections 5(b) and (c) of the Act approved July 15, 1968 (82 Stat. 354)” on authority of Pub. L. 113-287, §6(e), Dec. 19, 2014, 128 Stat. 3272, which Act

enacted Title 54, National Park Service and Related Programs. Subsection (c) of section 5 of the Act approved July 15, 1968, meaning section 5(c) of Pub. L. 90-401, was redesignated subsection (d) and a new subsection (c) was added by Pub. L. 98-506, §2, Oct. 19, 1984, 98 Stat. 2338.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100-202 inserted at end “The Secretary may lease from the Department of Hawaiian Home Lands said trust lands until such time as said lands may be acquired by exchange as set forth herein or otherwise acquired. The Secretary may enter into such a lease without regard to fiscal year limitations.”

§ 410jj-4. Administration

(a) Laws governing

The Secretary shall administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535),¹ the Act of August 21, 1935 (49 Stat. 666),¹ and the provisions of this Act.

(b) Emergency, temporary, and interim activities; cooperative agreements; expenditures; rehabilitation projects

(1) With the approval of the owner thereof, the Secretary may undertake critical or emergency stabilization of utilities and historic structures, develop and occupy temporary office space, and conduct interim interpretive and visitor services on non-Federal property within the park.

(2) The Secretary shall seek and may enter into cooperative agreements with the owner or owners of property within the park pursuant to which the Secretary may preserve, protect, maintain, construct, reconstruct, develop, improve, and interpret sites, facilities, and resources of historic, natural, architectural, and cultural significance. Such agreements shall be of not less than twenty years duration, may be extended and amended by mutual agreement, and shall include, without limitation, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement. Each such agreement shall also provide that the owner shall be liable to the United States in an amount equal to the fair market value of any capital improvements made to or placed upon the property in the event the agreement is terminated prior to its natural expiration, or any extension thereof, by the owner, such value to be determined as of the date of such termination, or, at the election of the Secretary, that the Secretary be permitted to remove such capital improvements within a reasonable time of such termination. Upon the expiration of such agreement, the improvements thereon shall become the property of the owner, unless the United States desires to remove such capital improvements and restore the property to its natural state within a reasonable time for such expiration.

(3) Except for emergency, temporary, and interim activities as authorized in paragraph (1) of this subsection, no funds appropriated pursuant to this Act shall be expended on non-Federal

¹ See References in Text note below.

property unless such expenditure is pursuant to a cooperative agreement with the owner.

(4) The Secretary may stabilize and rehabilitate structures and other properties used for religious or sectarian purposes only if such properties constitute a substantial and integral part of the historical fabric of the Kalaupapa settlement, and only to the extent necessary and appropriate to interpret adequately the nationally significant historical features and events of the settlement for the benefit of the public.

(Pub. L. 96-565, title I, §105, Dec. 22, 1980, 94 Stat. 3322.)

REFERENCES IN TEXT

The Act of August 25, 1916 (39 Stat. 535), 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 Act of August 21, 1935 (49 Stat. 666), referred to in subsec. (a), is act Aug. 21, 1935, ch. 593, 49 Stat. 666, known as the Historic Sites Act of 1935 and also as the Historic Sites, Buildings, and Antiquities Act, which enacted sections 461 to 467 of this title. The Act was repealed and restated as section 1866(a) of Title 18, Crimes and Criminal Procedure, and sections 102303 and 102304 and chapter 3201 of Title 54, National Park Service and Related Programs, 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.

This Act, referred to in subsections (a) and (b)(3), is Pub. L. 96-565, Dec. 22, 1980, 94 Stat. 3321, which enacted this subchapter and provisions set out as a note under section 2991a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

MEMORIAL TO INDIVIDUALS FORCIBLY RELOCATED TO KALAUPAPA PENINSULA

Pub. L. 111-11, title VII, §7108, Mar. 30, 2009, 123 Stat. 1196, provided that:

“(a) IN GENERAL.—The Secretary of the Interior shall authorize Ka ‘Ohana O Kalaupapa, a non-profit organization consisting of patient residents at Kalaupapa National Historical Park, and their family members and friends, to establish a memorial at a suitable location or locations approved by the Secretary at Kalawao or Kalaupapa within the boundaries of Kalaupapa National Historical Park located on the island of Molokai, in the State of Hawaii, to honor and perpetuate the memory of those individuals who were forcibly relocated to Kalaupapa Peninsula from 1866 to 1969.

“(b) DESIGN.—

“(1) IN GENERAL.—The memorial authorized by subsection (a) shall—

“(A) display in an appropriate manner the names of the first 5,000 individuals sent to the Kalaupapa Peninsula between 1866 and 1896, most of whom lived at Kalawao; and

“(B) display in an appropriate manner the names of the approximately 3,000 individuals who arrived at Kalaupapa in the second part of its history, when most of the community was concentrated on the Kalaupapa side of the peninsula.

“(2) APPROVAL.—The location, size, design, and inscriptions of the memorial authorized by subsection (a) shall be subject to the approval of the Secretary of the Interior.

“(c) FUNDING.—Ka ‘Ohana O Kalaupapa, a nonprofit organization, shall be solely responsible for acceptance of contributions for and payment of the expenses associated with the establishment of the memorial.”

§ 410jj-5. Special needs of leprosy patients residing in Kalaupapa settlement; specific provisions

The following provisions are made with respect to the special needs of the leprosy patients residing in the Kalaupapa settlement—

(1) So long as the patients may direct, the Secretary shall not permit public visitation to the settlement in excess of one hundred persons in any one day.

(2) Health care for the patients shall continue to be provided by the State of Hawaii, with assistance from Federal programs other than those authorized herein.

(3) Notwithstanding any other provision of law, the Secretary shall provide patients a first right of refusal to provide revenue-producing visitor services, including such services as providing food, accommodations, transportation, tours, and guides.

(4) Patients shall continue to have the right to take and utilize fish and wildlife resources without regard to Federal fish and game laws and regulations.

(5) Patients shall continue to have the right to take and utilize plant and other natural resources for traditional purposes in accordance with applicable State and Federal laws.

(Pub. L. 96-565, title I, §106, Dec. 22, 1980, 94 Stat. 3323.)

§ 410jj-6. Additional needs of leprosy patients and Native Hawaiians for employment and training; specific provisions

The following provisions are made with respect to additional needs of the leprosy patients and Native Hawaiians for employment and training. (The term “Native Hawaiian” as used in this subchapter, means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.)—

(1) Notwithstanding any other provision of law, the Secretary shall give first preference to qualified patients and Native Hawaiians in making appointments to positions established for the administration of the park, and the appointment of patients and Native Hawaiians shall be without regard to any provision of the Federal civil service laws giving an employment preference to any other class of applicant and without regard to any numerical limitation on personnel otherwise applicable.

(2) The Secretary shall provide training opportunities for patients and Native Hawaiians to develop skills necessary to qualify for the provision of visitor services and for appointment to positions referred to in paragraph (1).

(Pub. L. 96-565, title I, §107, Dec. 22, 1980, 94 Stat. 3323.)