

Section 174, act July 9, 1888, ch. 595, § 8, 25 Stat. 246, reserved to Congress the right to alter, amend, or repeal this chapter.

CHAPTER 11—NATIONAL ARBORETUM

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§ 191. Establishment; site; acquisition of land

The Secretary of Agriculture is authorized and directed to establish and maintain a national arboretum for purposes of research and education concerning tree and plant life. For the purposes of this chapter, (1) the President is authorized to transfer to the jurisdiction of the Secretary of Agriculture by Executive order any land which now belongs to the United States within or adjacent to the District of Columbia located along the Anacostia River north of Benning Bridge, and (2) the Secretary of Agriculture is authorized in his discretion to acquire, within the limits of the appropriation authorized by this chapter by private purchase, condemnation proceedings, or gift, land so located or other land within or adjacent to the District of Columbia: *Provided*, That the purchase price of any part of said land shall not exceed the full value assessment of such property last made before purchase thereof plus 25 per centum of such assessed value.

(Mar. 4, 1927, ch. 505, § 1, 44 Stat. 1422.)

TRANSFER OF FUNCTIONS

Functions of all officers, agencies and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Authority of President under this section to transfer to jurisdiction of Secretary of Agriculture for purposes of this chapter any land belonging to United States within or adjacent to District of Columbia located along Anacostia River north of Benning Bridge delegated to Administrator of General Services, see section 1(18) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

FACILITIES TO HOUSE BONSAI COLLECTIONS

Pub. L. 103-111, title I, Oct. 21, 1993, 107 Stat. 1051, provided in part: "That hereafter, facilities to house bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) [now 40 U.S.C. 8106] shall not apply to the construction of such facilities".

Similar provisions were contained in the following prior appropriations acts:

- Pub. L. 102-341, title I, Aug. 14, 1992, 106 Stat. 878.
- Pub. L. 102-142, title I, Oct. 28, 1991, 105 Stat. 883.
- Pub. L. 101-506, title I, Nov. 5, 1990, 104 Stat. 1320.

Pub. L. 101-161, title I, Nov. 21, 1989, 103 Stat. 956.

Pub. L. 100-460, title I, Oct. 1, 1988, 102 Stat. 2234.

Pub. L. 100-202, § 101(k) [title I], Dec. 22, 1987, 101 Stat. 1329-322, 1329-327.

Pub. L. 99-500, § 101(a) [title I], Oct. 18, 1986, 100 Stat. 1783, 1783-5, and Pub. L. 99-591, § 101(a) [title I], Oct. 30, 1986, 100 Stat. 3341, 3341-5.

§ 192. Omitted

CODIFICATION

Section, act Mar. 4, 1927, ch. 505, § 2, 44 Stat. 1422, authorized appropriation of \$300,000 to be expended for acquisition of land specified in section 191 of this title.

§ 193. Administration of arboretum

In order to stimulate research and discovery the national arboretum established by the Secretary of Agriculture in accordance with the provisions of this chapter shall be under competent scientific direction. The arboretum shall be administered by the Secretary of Agriculture separately from the agricultural, horticultural, and forestry stations of the Department of Agriculture, but it shall be so correlated with them as to bring about the most effective utilization of its facilities and discoveries.

(Mar. 4, 1927, ch. 505, § 3, 44 Stat. 1422.)

§ 194. Advisory council

The Secretary of Agriculture is authorized to create an advisory council in relation to the plan and development of the national arboretum to be established under this chapter, to include representatives of national organizations interested in the work of the arboretum.

(Mar. 4, 1927, ch. 505, § 4, 44 Stat. 1422.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 195. Gifts, bequests, or devises for benefit of National Arboretum; separate fund in the Treasury

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to solicit, accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be dis-

bursed upon order of the Secretary of Agriculture.

(Mar. 4, 1927, ch. 505, §5, as added Pub. L. 94-129, Nov. 13, 1975, 89 Stat. 683; amended Pub. L. 104-127, title VIII, §890(a), Apr. 4, 1996, 110 Stat. 1181.)

AMENDMENTS

1996—Pub. L. 104-127 inserted “solicit,” after “authorized to” in first sentence.

§ 196. Concessions, fees, and voluntary services

(a) In general

Notwithstanding chapters 1 to 11 and section 1302 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, the Secretary of Agriculture, in furtherance of the mission of the National Arboretum, may—

(1) negotiate concessions and agreements for the National Arboretum with nonprofit scientific or educational organizations, the interests of which are complementary to the mission of the National Arboretum, or nonprofit organizations that support the purpose of the National Arboretum, except that the net proceeds of the organizations from the concessions or agreements, as applicable, shall be used exclusively for—

(A) the research and educational work for the benefit of the National Arboretum; and

(B) the operation and maintenance of the facilities of the National Arboretum, including enhancements, upgrades, restoration, and conservation;

(2) provide by concession, on such terms as the Secretary of Agriculture considers appropriate and necessary, for commercial services for food, drink, and nursery sales, if an agreement for a permanent concession under this paragraph is negotiated with a qualified person submitting a proposal after due consideration of all proposals received after the Secretary of Agriculture provides reasonable public notice of the intent of the Secretary to enter into such an agreement;

(3) dispose of excess property, including excess plants and fish, in a manner designed to maximize revenue from any sale of the property, including by way of public auction, except that this paragraph shall not apply to the free dissemination of new varieties of seeds and germ plasm in accordance with section 2201 of title 7;

(4) charge such fees as the Secretary of Agriculture considers reasonable for temporary use by individuals or groups of National Arboretum facilities and grounds for any purpose consistent with the mission of the National Arboretum;

(5) charge such fees as the Secretary of Agriculture considers reasonable for the use of the National Arboretum for commercial photography or cinematography;

(6) publish, in print and electronically and without regard to laws relating to printing by the Federal Government, informational brochures, books, and other publications concerning the National Arboretum or the collections of the Arboretum; and

(7) license use of the National Arboretum name and logo for public service or commercial uses.

(b) Use of funds

Any funds received or collected by the Secretary of Agriculture as a result of activities described in subsection (a) shall be retained in a special fund in the Treasury. Amounts in the special fund shall be available to the Secretary of Agriculture, without further appropriation, for the use and benefit of the National Arboretum as the Secretary of Agriculture considers appropriate.

(c) Acceptance of voluntary services

The Secretary of Agriculture may accept the voluntary services of organizations described in subsection (a)(1), and the voluntary services of individuals (including employees of the National Arboretum), for the benefit of the National Arboretum.

(d) Recognition of donors

A nonprofit organization that entered into a concession or agreement under subsection (a)(1) may recognize donors if that recognition is approved in advance by the Secretary of Agriculture. In considering whether to approve such recognition, the Secretary shall broadly exercise the discretion of the Secretary to the fullest extent allowed under Federal law.

(Mar. 4, 1927, ch. 505, §6, as added Pub. L. 104-127, title VIII, §890(b), Apr. 4, 1996, 110 Stat. 1181; amended Pub. L. 105-185, title VI, §601(b), June 23, 1998, 112 Stat. 585; Pub. L. 113-79, title VII, §7602, Feb. 7, 2014, 128 Stat. 911.)

CODIFICATION

In subsec. (a), “chapters 1 to 11 and section 1302 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for “the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113-79, §7602(1), added par. (1) and struck out former par. (1) which read as follows: “negotiate agreements granting concessions at the National Arboretum to nonprofit scientific or educational organizations the interests of which are complementary to the mission of the National Arboretum, except that the net proceeds of the organizations from the concessions shall be used exclusively for research and educational work for the benefit of the National Arboretum;”.

Subsec. (d). Pub. L. 113-79, §7602(2), added subsec. (d).

1998—Subsec. (b). Pub. L. 105-185 substituted “Treasury. Amounts in the special fund shall be available to the Secretary of Agriculture, without further appropriation,” for “Treasury”.

§ 197. Construction of Chinese Garden at the National Arboretum

A Chinese Garden may be constructed at the National Arboretum established under this chapter with—

(1) funds accepted under section 195 of this title;