

habilitation of an existing building, as determined by the Secretary; or

“(B) 20 years, in the case of a lease not described in subparagraph (A).”

Subsec. (b)(4). Pub. L. 106-117, §208(b)(2), added par. (4) and struck out former par. (4) which read as follows: “Any payment by the Secretary for the use of space or services by the Department on property that has been leased under this subchapter may only be made from funds appropriated to the Department for the activity that uses the space or services. No other such payment may be made by the Secretary to a lessee under an enhanced-use lease unless the authority to make the payment is provided in advance in an appropriation Act.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-154, title II, §211(b)(2), Aug. 6, 2012, 126 Stat. 1180, provided that:

“(A) IN GENERAL.—Paragraph (2) of section 8162(a) of title 38, United States Code, as amended by paragraph (1), shall take effect on January 1, 2012, and shall apply with respect to enhanced-use leases entered into on or after such date.

“(B) PREVIOUS LEASES.—Any enhanced-use lease that the Secretary has entered into prior to the date described in subparagraph (A) shall be subject to the provisions of subchapter V of chapter 81 of such title, as in effect on the day before the date of the enactment of this Act [Aug. 6, 2012].”

Pub. L. 112-154, title II, §211(c)(2), Aug. 6, 2012, 126 Stat. 1181, provided that: “Paragraph (3) of section 8162(b), as amended by paragraph (1)(B) of this subsection, shall take effect on January 1, 2012, and shall apply with respect to enhanced-use leases entered into on or after such date.”

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-161, div. I, title II, §224(d), Dec. 26, 2007, 121 Stat. 2272, provided that: “This section [amending this section], including the amendment made by this section, shall apply with respect to fiscal year 2008 and each fiscal year thereafter.”

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.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-95, §10(c), Dec. 21, 2001, 115 Stat. 920, provided that: “The amendments made by subsection (b) [amending this section] shall apply to leases entered into on or after the date of the enactment of this Act [Dec. 21, 2001].”

§ 8163. Hearing and notice requirements regarding proposed leases

(a) If the Secretary proposes to enter into an enhanced-use lease with respect to certain property, the Secretary shall conduct a public hearing before entering into the lease. The hearing shall be conducted in the community in which the property is located. At the hearing, the Secretary shall receive the views of veterans service organizations and other interested parties regarding the proposed lease of the property and the possible effects of the uses to be made of the property under a lease of the general character then contemplated. The possible effects to be addressed at the hearing shall include effects on—

- (1) local commerce and other aspects of the local community;
- (2) programs administered by the Department; and

(3) services to veterans in the community.

(b) Before conducting such a hearing, the Secretary shall provide reasonable notice to the congressional veterans' affairs committees and to the public of the proposed lease and of the hearing. The notice shall include the following:

- (1) The time and place of the hearing.
- (2) Identification of the property proposed to be leased.
- (3) A description of the proposed uses of the property under the lease.
- (4) A description of how the uses to be made of the property under a lease of the general character then contemplated—

(A) would—

- (i) contribute in a cost-effective manner to the mission of the Department;
- (ii) not be inconsistent with the mission of the Department;
- (iii) not adversely affect the mission of the Department; and
- (iv) affect services to veterans; or

(B) would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located.

(5) A description of how those uses would affect services to veterans.

(c)(1) If after a hearing under subsection (a) the Secretary intends to enter into an enhanced-use lease of the property involved, the Secretary shall notify 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 of the Secretary's intention to enter into such lease, shall publish a notice of such intention in the Federal Register, and shall submit to the congressional veterans' affairs committees a copy of the proposed lease. With respect to a major enhanced-use lease, upon the request of the congressional veterans' affairs committees, not later than 30 days after the date of such notice, the Secretary shall testify before the committees on the major enhanced-use lease, including with respect to the status of the lease, the cost, and the plans to carry out the activities under the lease. The Secretary may not delegate such testifying below the level of the head of the Office of Asset Enterprise Management of the Department or any successor to such office.

(2) The Secretary may not enter into an enhanced use lease until the end of the 45-day period beginning on the date of the submission of notice under paragraph (1).

(3) Each notice under paragraph (1) shall include the following:

(A) An identification of the property involved.

(B) An explanation of the background of, rationale for, and economic factors in support of, the proposed lease.

(C) A summary of the views expressed by interested parties at the public hearing conducted in connection with the proposed designation, together with a summary of the Secretary's evaluation of those views.

(D) A description of the provisions of the proposed lease.

- (E) A description of how the proposed lease—
- (i) would—
 - (I) contribute in a cost-effective manner to the mission of the Department;
 - (II) not be inconsistent with the mission of the Department;
 - (III) not adversely affect the mission of the Department; and
 - (IV) affect services to veterans; or
 - (ii) would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located.
- (F) A description of how the proposed lease would affect services to veterans.
- (G) A summary of a cost-benefit analysis of the proposed lease.

(Added Pub. L. 102-86, title IV, §401(a), Aug. 14, 1991, 105 Stat. 419; amended Pub. L. 106-117, title II, §208(c), Nov. 30, 1999, 113 Stat. 1567; Pub. L. 106-419, title II, §241, title IV, §404(b)(1), Nov. 1, 2000, 114 Stat. 1847, 1865; Pub. L. 108-170, title II, §202(a), (d)(1), Dec. 6, 2003, 117 Stat. 2047, 2048; Pub. L. 114-226, §3(c)(1), Sept. 29, 2016, 130 Stat. 931.)

Editorial Notes

AMENDMENTS

2016—Subsec. (c)(1). Pub. L. 114-226 inserted “, 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” after “notify the congressional veterans’ affairs committees”, substituted “, shall publish” for “and shall publish”, inserted “, and shall submit to the congressional veterans’ affairs committees a copy of the proposed lease” after “in the Federal Register”, and inserted at end “With respect to a major enhanced-use lease, upon the request of the congressional veterans’ affairs committees, not later than 30 days after the date of such notice, the Secretary shall testify before the committees on the major enhanced-use lease, including with respect to the status of the lease, the cost, and the plans to carry out the activities under the lease. The Secretary may not delegate such testifying below the level of the head of the Office of Asset Enterprise Management of the Department or any successor to such office.”

2003—Pub. L. 108-170, §202(d)(1), substituted “Hearing and notice requirements regarding proposed leases” for “Designation of property to be leased” in section catchline.

Subsec. (a). Pub. L. 108-170, §202(a)(1), in first sentence, substituted “enter into an enhanced-use lease with respect to certain property” for “designate a property to be leased under an enhanced-use lease” and “before entering into the lease” for “before making the designation”.

Subsec. (b). Pub. L. 108-170, §202(a)(2), substituted “to the congressional veterans’ affairs committees and to the public of the proposed lease” for “of the proposed designation” in introductory provisions.

Subsec. (c)(1). Pub. L. 108-170, §202(a)(3)(A), substituted “enter into an enhanced-use lease of the property involved” for “designate the property involved” and “to enter into such lease” for “to so designate the property”.

Subsec. (c)(2). Pub. L. 108-170, §202(a)(3)(B), substituted “45-day period” for “90-day period”.

Subsec. (c)(3)(D). Pub. L. 108-170, §202(a)(3)(C)(i), substituted “description of the provisions” for “general description”.

Subsec. (c)(3)(G). Pub. L. 108-170, §202(a)(3)(C)(ii), added subpar. (G).

Subsec. (c)(4). Pub. L. 108-170, §202(a)(3)(D), struck out par. (4) which read as follows: “Not less than 30 days before entering into an enhanced-use lease, the Secretary shall submit to the congressional veterans’ affairs committees a report on the proposed lease. The report shall include—

“(A) updated information with respect to the matters described in paragraph (3);

“(B) a summary of a cost-benefit analysis of the proposed lease;

“(C) a description of the provisions of the proposed lease; and

“(D) a notice of designation with respect to the property.”

2000—Subsec. (c)(2). Pub. L. 106-419, §241, amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The Secretary may not enter into an enhanced-use lease until the end of a 60-day period of continuous session of Congress following the date of the submission of notice under paragraph (1). For purposes of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 60-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.”

Subsec. (c)(3)(E). Pub. L. 106-419, §404(b)(1), amended directory language of Pub. L. 106-117, §208(c)(2). See 1999 Amendment note below.

1999—Subsec. (b). Pub. L. 106-117, §208(c)(1)(A), substituted “include the following:” for “include—” in introductory provisions.

Subsec. (b)(1) to (3). Pub. L. 106-117, §208(c)(1)(B), (C), capitalized the first letter of the first word and substituted a period for the semicolon at end.

Subsec. (b)(4). Pub. L. 106-117, §208(c)(1)(B), (D), in introductory provisions, capitalized the first letter of the first word, added subpars. (A) and (B), and struck out former subpars. (A) to (C) which read as follows:

“(A) would contribute in a cost-effective manner to the mission of the Department;

“(B) would not be inconsistent with the mission of the Department; and

“(C) would not adversely affect the mission of the Department; and”.

Subsec. (b)(5). Pub. L. 106-117, §208(c)(1)(B), capitalized the first letter of the first word.

Subsec. (c)(3)(E). Pub. L. 106-117, §208(c)(2), as amended by Pub. L. 106-419, §404(b)(1), substituted cls. (i) and (ii) for former cls. (i) to (iii) which read as follows:

“(i) would contribute in a cost-effective manner to the mission of the Department;

“(ii) would not be inconsistent with the mission of the Department; and

“(iii) would not adversely affect the mission of the Department.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-419, title IV, §404(b)(1), Nov. 1, 2000, 114 Stat. 1865, provided that the amendment made by section 404(b)(1) is effective Nov. 30, 1999, and as if included in Pub. L. 106-117 as originally enacted.

§ 8164. Authority for disposition of leased property

(a) If, during the term of an enhanced-use lease or within 30 days after the end of the term of the lease, the Secretary determines that the leased property is no longer needed by the Department, the Secretary may initiate action for the transfer to the lessee of all right, title, and interest of the United States in the property. A disposition of property may not be made under this section unless the Secretary determines that the disposition under this section rather