

ment” and all that followed through “may sell” in subsecs. (a) and (b), and substituted “Air Force, or Department of Transportation.” for “Air Force” and all that followed in subsec. (b), clarifying the ambiguity created by the conflicting language of Pub. L. 96-513 and Pub. L. 97-31.

1981—Subsecs. (a), (b), Pub. L. 97-31 struck out reference to Federal Maritime Commission in subsec. (a), and substituted “or Department of Transportation” for “or Federal Maritime Commission” and struck out “or the Federal Maritime Commission” after “department” in subsec. (b). Amendment was executed to text in accordance with the probable intent of Congress, notwithstanding amendment of section by Pub. L. 96-513 which substituted different language than language contained in amendatory provisions of Pub. L. 97-31.

Subsec. (e), Pub. L. 97-99 added subsec. (e).

1980—Subsecs. (a), (b), Pub. L. 96-513 substituted “Federal Maritime Commission” for “Federal Maritime Board”.

1977—Subsec. (d), Pub. L. 95-82 substituted provisions relating to reimbursement of production expenses during any fiscal year from proceeds from sales for property during such fiscal year, for provisions requiring proceeds from sales under subsecs. (a) or (b) of this section to be credited to the appropriations under which the property concerned was procured.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-407, title VIII, §809(b), Aug. 28, 1984, 98 Stat. 1523, provided that:

“(b)(1) Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] shall take effect on October 1, 1984.

“(2) The amendment made by subsection (a)(2)(B) [probably should be ‘(a)(3)(B)’], which amended subsec. (e)(1) of this section] shall apply with respect to payments to States for fiscal years beginning after September 30, 1984.”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-99, title IX, §910(b), Dec. 23, 1981, 95 Stat. 1386, provided that: “Subsection (e) of section 2665 of title 10, United States Code, as added by subsection (a), shall apply with respect to timber and timber products sold after September 30, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[§ 2666. Repealed. Pub. L. 108-375, div. B, title XXVIII, §2821(a)(2), Oct. 28, 2004, 118 Stat. 2129]

Section, act Aug. 10, 1956, ch. 1041, 70A Stat. 149, related to limitation on commission on a contract for the purchase of land payable from funds appropriated for the Department of Defense.

§ 2667. Leases: non-excess property of military departments and Defense Agencies

(a) LEASE AUTHORITY.—Whenever the Secretary concerned considers it advantageous to the United States, the Secretary concerned may lease to such lessee and upon such terms as the Secretary concerned considers will promote the national defense or to be in the public interest, real or personal property that—

- (1) is under the control of the Secretary concerned;
- (2) is not for the time needed for public use; and
- (3) is not excess property, as defined by section 102 of title 40.

(b) CONDITIONS ON LEASES.—A lease under subsection (a)—

(1) may not be for more than five years, unless the Secretary concerned determines that a lease for a longer period will promote the national defense or be in the public interest;

(2) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;

(3) shall permit the Secretary to revoke the lease at any time, unless he determines that the omission of such a provision will promote the national defense or be in the public interest;

(4) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Secretary;

(5) may provide, notwithstanding section 1302 of title 40 or any other provision of law, for the alteration, repair, or improvement, by the lessee, of the property leased as the payment of part or all of the consideration for the lease;

(6) except as otherwise provided in subsection (d), shall require the lessee to provide the covered entities specified in paragraph (1) of that subsection the right to establish and operate a community support facility or provide community support services, or seek equitable compensation for morale, welfare, and recreation programs of the Department of Defense in lieu of the operation of such a facility or the provision of such services, if the Secretary determines that the lessee will provide merchandise or services in direct competition with covered entities through the lease;

(7) may not provide for a leaseback by the Secretary concerned with an annual payment in excess of \$500,000, or otherwise commit the Secretary concerned or the Department of Defense to annual payments in excess of such amount; and

(8) shall provide that any facilities constructed on the property may be constructed using commercial standards in a manner that provides force protection safeguards appropriate to the activities conducted in, and the location of, such facilities.

(c) TYPES OF IN-KIND CONSIDERATION.—(1) In addition to any in-kind consideration accepted under subsection (b)(5), in-kind consideration accepted with respect to a lease under this section may include the following: