

US Code

(Unofficial compilation from the Legal Information Institute)

TITLE 43 - PUBLIC LANDS

CHAPTER 41—FEDERAL LAND TRANSACTION FACILITATION

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TITLE 43 - PUBLIC LANDS	1
CHAPTER 41 - FEDERAL LAND TRANSACTION FACILITATION	2
§ 2301. Findings	2
§ 2302. Definitions	3
§ 2303. Identification of inholdings	4
§ 2304. Disposal of public land	4
§ 2305. Federal Land Disposal Account	5
§ 2306. Special provisions	7

TITLE 43 PUBLIC LANDS

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TITLE 43—PUBLIC LANDS

Chap. ...Sec.

1. Bureau of Land Management ...1
2. United States Geological Survey ...31
3. Surveys ...51
4. District Land Offices ...70
- 5 Land Districts ...121
6. Withdrawal From Settlement, Location, Sale, or Entry ...141
7. Homesteads ...161
8. Timber and Stone Lands [Repealed] ...311
- 8A. Grazing Lands ...315
9. Desert-Land Entries ...321
10. Underground-Water Reclamation Grants [Repealed] ...351
11. Discovery, Development, and Marking of Water Holes, etc., by Government ...361
- 11A. Board on Geographic Names ...364
12. Reclamation and Irrigation of Lands by Federal Government ...371
- 12A. Boulder Canyon Project ...617
- 12B. Colorado River Storage Project ...620
13. Federal Lands Included in State Irrigation Districts ...621
14. Grants of Desert Lands to States for Reclamation ...641
15. Appropriation of Waters; Reservoir Sites ...661
16. Sale and Disposal of Public Lands ...671
17. Reservation and Sale of Town Sites on Public Lands ...711
18. Survey of Public Lands ...751
19. Bounty Lands [Repealed] ...781
20. Reservations and Grants to States for Public Purposes ...851
21. Grants in Aid of Railroads and Wagon Roads ...881
- 21A. Forfeiture of Northern Pacific Railroad Indemnity Land Grants [Omitted] ...921
22. Rights-of-way and Other Easements in Public Lands ...931
23. Grants of Swamp and Overflowed Lands ...981
24. Drainage Under State Laws [Repealed] ...1021
25. Unlawful Inclosures or Occupancy; Obstructing Settlement or Transit ...1061
- 25A. Lands Held Under Color of Title ...1068
26. Abandoned Military Reservations [Repealed] ...1071
27. Public Lands in Oklahoma ...1091
28. Miscellaneous Provisions Relating to Public Lands ...1151
29. Submerged Lands ...1301
30. Administration of Public Lands ...1361
31. Department of the Interior ...1451
32. Colorado River Basin Project ...1501
- 32A. Colorado River Basin Salinity Control ...1571
- 32B. Colorado River Floodway ...1600
33. Alaska Native Claims Settlement ...1601
- 33A. Implementation of Alaska Native Claims Settlement and Alaska Statehood ...1631
34. Trans-Alaska Pipeline ...1651
35. Federal Land Policy and Management ...1701
36. Outer Continental Shelf Resource Management ...1801
37. Public Rangelands Improvement ...1901
38. Crude Oil Transportation Systems ...2001
39. Abandoned Shipwrecks ...2101
40. Reclamation States Emergency Drought Relief ...2201
41. Federal Land Transaction Facilitation ...2301
42. Rural Water Supply ...2401

CHAPTER 41—FEDERAL LAND TRANSACTION FACILITATION

Sec.

2301. Findings.

2302. Definitions.

2303. Identification of inholdings.

2304. Disposal of public land.

2305. Federal Land Disposal Account.

2306. Special provisions.

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§ 2301. Findings

Congress finds that—

- (1) the Bureau of Land Management has authority under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) to sell land identified for disposal under its land use planning;
- (2) the Bureau of Land Management has authority under that Act to exchange Federal land for non-Federal land if the exchange would be in the public interest;
- (3) through land use planning under that Act, the Bureau of Land Management has identified certain tracts of public land for disposal;
- (4) the Federal land management agencies of the Departments of the Interior and Agriculture have authority under existing law to acquire land consistent with the mission of each agency;
- (5) the sale or exchange of land identified for disposal and the acquisition of certain non-Federal land from willing landowners would—
 - (A) allow for the reconfiguration of land ownership patterns to better facilitate resource management;
 - (B) contribute to administrative efficiency within Federal land management units; and
 - (C) allow for increased effectiveness of the allocation of fiscal and human resources within the Federal land management agencies;
- (6) a more expeditious process for disposal and acquisition of land, established to facilitate a more effective configuration of land ownership patterns, would benefit the public interest;
- (7) many private individuals own land within the boundaries of Federal land management units and desire to sell the land to the Federal Government;
- (8) such land lies within national parks, national monuments, national wildlife refuges, national forests, and other areas designated for special management;
- (9) Federal land management agencies are facing increased workloads from rapidly growing public demand for the use of public land, making it difficult for Federal managers to address problems created by the existence of inholdings in many areas;
- (10) in many cases, inholders and the Federal Government would mutually benefit from Federal acquisition of the land on a priority basis;
- (11) proceeds generated from the disposal of public land may be properly dedicated to the acquisition of inholdings and other land that will improve the resource management ability of the Federal land management agencies and adjoining landowners;
- (12) using proceeds generated from the disposal of public land to purchase inholdings and other such land from willing sellers would enhance the ability of the Federal land management agencies to—
 - (A) work cooperatively with private landowners and State and local governments; and
 - (B) promote consolidation of the ownership of public and private land in a manner that would allow for better overall resource management;
- (13) in certain locations, the sale of public land that has been identified for disposal is the best way for the public to receive fair market value for the land; and

(14) to allow for the least disruption of existing land and resource management programs, the Bureau of Land Management may use non-Federal entities to prepare appraisal documents for agency review and approval consistent with applicable provisions of the Uniform Standards for Federal Land Acquisition.

(Pub. L. 106–248, title II, § 202, July 25, 2000, 114 Stat. 613.)

References in Text

The Federal Land Policy and Management Act of 1976, referred to in pars. (1) to (3), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

Short Title

Pub. L. 106–248, title II, § 201, July 25, 2000, 114 Stat. 613, provided that: “This title [enacting this chapter] may be cited as the ‘Federal Land Transaction Facilitation Act’.”

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§ 2302. Definitions

In this chapter:

(1) Exceptional resource

The term “exceptional resource” means a resource of scientific, natural, historic, cultural, or recreational value that has been documented by a Federal, State, or local governmental authority, and for which there is a compelling need for conservation and protection under the jurisdiction of a Federal agency in order to maintain the resource for the benefit of the public.

(2) Federally designated area

The term “federally designated area” means land in Alaska and the eleven contiguous Western States (as defined in section 1702 (o) of this title) that on July 25, 2000, was within the boundary of—

- (A) a national monument, area of critical environmental concern, national conservation area, national riparian conservation area, national recreation area, national scenic area, research natural area, national outstanding natural area, or a national natural landmark managed by the Bureau of Land Management;
- (B) a unit of the National Park System;
- (C) a unit of the National Wildlife Refuge System;
- (D) an area of the National Forest System designated for special management by an Act of Congress; or
- (E) an area within which the Secretary or the Secretary of Agriculture is otherwise authorized by law to acquire lands or interests therein that is designated as—
 - (i) wilderness under the Wilderness Act (16 U.S.C. 1131 et seq.);
 - (ii) a wilderness study area;
 - (iii) a component of the Wild and Scenic Rivers System under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); or
 - (iv) a component of the National Trails System under the National Trails System Act (16 U.S.C. 1241 et seq.).

(3) Inholding

The term “inholding” means any right, title, or interest, held by a non-Federal entity, in or to a tract of land that lies within the boundary of a federally designated area.

(4) Public land

The term “public land” means public lands (as defined in section 1702 of this title).

(5) Secretary

The term “Secretary” means the Secretary of the Interior.

(Pub. L. 106–248, title II, § 203, July 25, 2000, 114 Stat. 614.)

References in Text

The Wilderness Act, referred to in par. (2)(E)(i), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

The Wild and Scenic Rivers Act, referred to in par. (2)(E)(iii), is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§ 1271 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of Title 16 and Tables.

The National Trails System Act, referred to in par. (2)(E)(iv), is Pub. L. 90–543, Oct. 2, 1968, 82 Stat. 919, as amended, which is classified generally to chapter 27 (§ 1241 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1241 of Title 16 and Tables.

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§ 2303. Identification of inholdings

(a) In general

The Secretary and the Secretary of Agriculture shall establish a procedure to—

- (1) identify, by State, inholdings for which the landowner has indicated a desire to sell the land or interest therein to the United States; and
- (2) prioritize the acquisition of inholdings in accordance with section 2305 (c)(3) of this title.

(b) Public notice

As soon as practicable after July 25, 2000, and periodically thereafter, the Secretary and the Secretary of Agriculture shall provide public notice of the procedures referred to in subsection (a) of this section, including any information necessary for the consideration of an inholding under section 2305 of this title. Such notice shall include publication in the Federal Register and by such other means as the Secretary and the Secretary of Agriculture determine to be appropriate.

(c) Identification

An inholding—

- (1) shall be considered for identification under this section only if the Secretary or the Secretary of Agriculture receive notification of a desire to sell from the landowner in response to public notice given under subsection (b) of this section; and
- (2) shall be deemed to have been established as of the later of—
 - (A) the earlier of—
 - (i) the date on which the land was withdrawn from the public domain; or
 - (ii) the date on which the land was established or designated for special management; or
 - (B) the date on which the inholding was acquired by the current owner.

(d) No obligation to convey or acquire

The identification of an inholding under this section creates no obligation on the part of a landowner to convey the inholding or any obligation on the part of the United States to acquire the inholding.

(Pub. L. 106–248, title II, § 204, July 25, 2000, 114 Stat. 615.)

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§ 2304. Disposal of public land

(a) In general

The Secretary shall establish a program, using funds made available under section 2305 of this title, to complete appraisals and satisfy other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans (as in effect on July 25, 2000) under section 1712 of this title.

(b) Sale of public land

(1) In general

The sale of public land so identified shall be conducted in accordance with sections 1713 and 1719 of this title.

(2) Exceptions to competitive bidding requirements

The exceptions to competitive bidding requirements under section 1713 (f) of this title shall apply to this section in cases in which the Secretary determines it to be necessary.

(c) Report in Public Land Statistics

The Secretary shall provide in the annual publication of Public Land Statistics, a report of activities under this section.

(d) Termination of authority

The authority provided under this section shall terminate 10 years after July 25, 2000.

(Pub. L. 106-248, title II, § 205, July 25, 2000, 114 Stat. 615.)

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§ 2305. Federal Land Disposal Account

(a) Deposit of proceeds

Notwithstanding any other law (except a law that specifically provides for a proportion of the proceeds to be distributed to any trust funds of any States), the gross proceeds of the sale or exchange of public land under this chapter¹ shall be deposited in a separate account in the Treasury of the United States to be known as the "Federal Land Disposal Account".

(b) Availability

Amounts in the Federal Land Disposal Account shall be available to the Secretary and the Secretary of Agriculture, without further Act of appropriation, to carry out this chapter.

(c) Use of the Federal Land Disposal Account

(1) In general

Funds in the Federal Land Disposal Account shall be expended in accordance with this subsection.

(2) Fund allocation

(A) Purchase of land

Except as authorized under subparagraph (C), funds shall be used to purchase lands or interests therein that are otherwise authorized by law to be acquired, and that are—

(i) inholdings; and

(ii) adjacent to federally designated areas and contain exceptional resources.

(B) Inholdings

Not less than 80 percent of the funds allocated for the purchase of land within each State shall be used to acquire inholdings identified under section 2303 of this title.

(C) Administrative and other expenses

An amount not to exceed 20 percent of the funds deposited in the Federal Land Disposal Account may be used by the Secretary for administrative and other expenses necessary to carry out the land disposal program under section 2304 of this title.

(D) Same State purchases

Of the amounts not used under subparagraph (C), not less than 80 percent shall be expended within the State in which the funds were generated. Any remaining funds may be expended in any other State.

(3) Priority

The Secretary and the Secretary of Agriculture shall develop a procedure for prioritizing the acquisition of inholdings and non-Federal lands with exceptional resources as provided in paragraph (2). Such procedure shall consider—

- (A) the date the inholding was established (as provided in section 2303 (c) of this title);
- (B) the extent to which acquisition of the land or interest therein will facilitate management efficiency; and
- (C) such other criteria as the Secretary and the Secretary of Agriculture deem appropriate.

(4) Basis of sale

Any land acquired under this section shall be—

- (A) from a willing seller;
- (B) contingent on the conveyance of title acceptable to the Secretary, or the Secretary of Agriculture in the case of an acquisition of National Forest System land, using title standards of the Attorney General;
- (C) at a price not to exceed fair market value consistent with applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions; and
- (D) managed as part of the unit within which it is contained.

(d) Contaminated sites and sites difficult and uneconomic to manage

Funds in the Federal Land Disposal Account shall not be used to purchase land or an interest in land that, as determined by the Secretary or the Secretary of Agriculture—

- (1) contains a hazardous substance or is otherwise contaminated; or
- (2) because of the location or other characteristics of the land, would be difficult or uneconomic to manage as Federal land.

(e) Land and Water Conservation Fund Act

Funds made available under this section shall be supplemental to any funds appropriated under the Land and Water Conservation Fund Act (16 U.S.C. 4601–4 et seq.).

(f) Termination

On termination of activities under section 2304 of this title—

- (1) the Federal Land Disposal Account shall be terminated; and
- (2) any remaining balance in the account shall become available for appropriation under section 3 of the Land and Water Conservation Fund Act (16 U.S.C. 4601–6).

Footnotes

¹ See References in Text note below.

(Pub. L. 106–248, title II, § 206, July 25, 2000, 114 Stat. 616.)

References in Text

This chapter, referred to in subsec. (a), was in the original “this Act” and was translated as reading “this title”, meaning title II of Pub. L. 106–248, which enacted this chapter, to reflect the probable intent of Congress.

The Land and Water Conservation Fund Act, referred to in subsec. (e), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally

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to part B (§ 4601–4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 4601–4 of Title 16 and Tables.

§ 2306. Special provisions

(a) In general

Nothing in this chapter provides an exemption from any limitation on the acquisition of land or interest in land under any Federal law in effect on July 25, 2000.

(b) Other law

This chapter shall not apply to land eligible for sale under—

- (1) Public Law 96–568¹ (commonly known as the “Santini-Burton Act”) (94 Stat. 3381); or
- (2) the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2343).

(c) Exchanges

Nothing in this chapter precludes, preempts, or limits the authority to exchange land under authorities providing for the exchange of Federal lands, including but not limited to—

- (1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); or
- (2) the Federal Land Exchange Facilitation Act of 1988 (102 Stat. 1086) or the amendments made by that Act.

(d) No new right or benefit

Nothing in this chapter¹ creates a right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person.

Footnotes

¹ See References in Text note below.

(Pub. L. 106–248, title II, § 207, July 25, 2000, 114 Stat. 617.)

References in Text

Public Law 96–568 (commonly known as the “Santini-Burton Act”) (94 Stat. 3381), referred to in subsec. (b)(1), probably means Pub. L. 96–586, Dec. 23, 1980, 94 Stat. 3381, which repealed sections 467a and 467a–1 of Title 16, Conservation and enacted provisions set out as notes under sections 461 and 467a of Title 16. For complete classification of this Act to the Code, see Tables.

The Southern Nevada Public Land Management Act of 1998, referred to in subsec. (b)(2), is Pub. L. 105–263, Oct. 19, 1998, 112 Stat. 2343, which amended section 460ccc–1 of Title 16, Conservation, and section 6901 of Title 31, Money and Finance, and enacted provisions set out as a note under section 6901 of Title 31. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 6901 of Title 31 and Tables.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(1), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The Federal Land Exchange Facilitation Act of 1988, referred to in subsec. (c)(2), is Pub. L. 100–409, Aug. 20, 1988, 102 Stat. 1086, as amended, which enacted section 1723 of this title, amended section 1716 of this title and sections 505a, 505b, and 521b of Title 16, Conservation, and enacted provisions set out as notes under sections 751 and 1716 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 1701 of this title and Tables.

This chapter, referred to in subsec. (d), was in the original “this Act” and was translated as reading “this title”, meaning title II of Pub. L. 106–248, which enacted this chapter, to reflect the probable intent of Congress.