

## 43 USC Ch. 41: FEDERAL LAND TRANSACTION FACILITATION

### From Title 43—PUBLIC LANDS

#### CHAPTER 41—FEDERAL LAND TRANSACTION FACILITATION

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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 OF 2018 AMENDMENT

Pub. L. 115–141, div. O, title III, §301, Mar. 23, 2018, 132 Stat. 1074, provided that: "This title [amending sections 2302 and 2304 to 2306 of this title] may be cited as the 'Federal Land Transaction Facilitation Act Reauthorization of 2018'."

## 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'."

## §2302. Definitions

In this chapter:

### (1) Exceptional resource

The term "exceptional resource" means a resource of scientific, natural, historic, cultural, recreational access and use, or other 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 is 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, priority species and habitats designated in a land use plan in accordance with subpart E (entitled "Fish and Wildlife") of part I of Appendix C of Bureau of Land Management Land Use Planning Handbook H-1601-1 (Rel 1-1693), a special recreation management 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) a National Forest or National Grassland in the National Forest System; 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) Inaccessible lands that are open to public hunting, fishing, recreational shooting, or other recreational purposes

The term "inaccessible lands that are open to public hunting, fishing, recreational shooting, or other recreational purposes" means public lands in Alaska and the eleven contiguous Western States (as defined in section 1702 of this title) consisting of at least 640 contiguous acres on which the public is allowed under Federal or State law to hunt, fish, target shoot or use the land for other recreational purposes but—

- (A) to which there is no public access or egress; or
- (B) to which public access or egress to the land is significantly restricted, as determined by the Secretary.

### (4) 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.

### (5) Public land

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

### (6) Secretary

The term "Secretary" means the Secretary of the Interior.

(Pub. L. 106–248, title II, §203, July 25, 2000, 114 Stat. 614; Pub. L. 115–141, div. O, title III, §302(1)–(3), Mar. 23, 2018, 132 Stat. 1074, 1075.)

## 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.

## AMENDMENTS

**2018**—Par. (1). Pub. L. 115–141, §302(1), substituted "cultural, recreational access and use, or other" for "cultural, or".

Par. (2). Pub. L. 115–141, §302(2)(A), substituted "is within" for "on July 25, 2000, was within" in introductory provisions.

Par. (2)(A). Pub. L. 115–141, §302(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "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;"

Par. (2)(D). Pub. L. 115–141, §302(2)(C), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "an area of the National Forest System designated for special management by an Act of Congress; or".

Pars. (3) to (6). Pub. L. 115–141, §302(3), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

## §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), 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); 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.)

## §2304. Disposal of public land

### (a) In general

The Secretary shall establish a program, using funds made available under section 2305 of this title—

(1) to complete appraisals and satisfy other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans under section 1712 of this title;

(2) not later than 180 days after March 23, 2018, to establish and make available to the public, on the website of the Department of the Interior, a database containing a comprehensive list of all the land referred to in paragraph (1); and

(3) to maintain the database referred to in paragraph (2).

### (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.

(Pub. L. 106–248, title II, §205, July 25, 2000, 114 Stat. 615; Pub. L. 111–212, title III, §3007(a), July 29, 2010, 124 Stat. 2339; Pub. L. 115–141, div. O, title III, §302(4), Mar. 23, 2018, 132 Stat. 1075.)

## AMENDMENTS

**2018**—Subsec. (a). Pub. L. 115–141, §302(4)(A), substituted "section 2305 of this title—" and pars. (1) to (3) for "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."

Subsec. (d). Pub. L. 115–141, §302(4)(B), struck out subsec. (d). Text read as follows: "The authority provided under this section shall terminate 11 years after July 25, 2000."

**2010**—Subsec. (d). Pub. L. 111–212 substituted "11 years" for "10 years".

## §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 chapter<sup>1</sup> 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;

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

(iii) adjacent to inaccessible lands open to public hunting, fishing, recreational shooting, or other recreational purposes.

(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.

(E) Any funds made available under subparagraph (D) that are not obligated or expended by the end of the fourth full fiscal year after the date of the sale or exchange of land that generated the funds may be expended in any 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 the acquisition of the land or interest therein will increase the public availability of resources for, and facilitate public access to, hunting, fishing, and other recreational activities;
- (C) the extent to which acquisition of the land or interest therein will facilitate management efficiency; and
- (D) 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) Chapter 2003 of title 54

Funds made available under this section shall be supplemental to any funds appropriated under chapter 2003 of title 54.

(Pub. L. 106–248, title II, §206, July 25, 2000, 114 Stat. 616; Pub. L. 113–287, §5(l)(9), Dec. 19, 2014, 128 Stat. 3271; Pub. L. 115–141, div. O, title III, §302(5)–(7), Mar. 23, 2018, 132 Stat. 1075, 1076.)

## 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.

## AMENDMENTS

**2018**—Subsec. (c)(2)(A)(i). Pub. L. 115–141, §302(5)(A), substituted "inholdings;" for "inholdings; and".

Subsec. (c)(2)(A)(ii). Pub. L. 115–141, §302(5)(B), substituted "exceptional resources; or" for "exceptional resources."

Subsec. (c)(2)(A)(iii). Pub. L. 115–141, §302(5)(C), added cl. (iii).

Subsec. (c)(2)(E). Pub. L. 115–141, §302(5)(D), added subpar. (E).

Subsec. (c)(3)(B) to (D). Pub. L. 115–141, §302(6), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (f). Pub. L. 115–141, §302(7), struck out subsec. (f). Text read as follows: "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 200303 of title 54."

**2014**—Subsec. (e). Pub. L. 113–287, §5(l)(9)(A), substituted "chapter 2003 of title 54" for "the Land and Water Conservation Fund Act (16 U.S.C. 4601–4 et seq.)".

Subsec. (f)(2). Pub. L. 113–287, §5(l)(9)(B), which directed substitution of "section 200303 of title 54" for "section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–6)", was executed by

making the substitution for "section 3 of the Land and Water Conservation Fund Act (16 U.S.C. 460l–6)" to reflect the probable intent of Congress.

<sup>1</sup> See References in Text note below.

## §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 96–586 (commonly known as the "Santini-Burton Act") (94 Stat. 3381);
- (2) the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2343);
- (3) the White Pine County Conservation, Recreation, and Development Act of 2006 (Public Law 109–432; 120 Stat. 3028);
- (4) the Lincoln County Conservation, Recreation, and Development Act of 2004 (Public Law 108–424; 118 Stat. 2403);
- (5) subtitle F of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1132 note; Public Law 111–11);
- (6) subtitle O of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 460www note, 1132 note; Public Law 111–11);
- (7) section 2601 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1108); or
- (8) section 2606 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1121).

### (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 chapter <sup>1</sup> 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.

(Pub. L. 106–248, title II, §207, July 25, 2000, 114 Stat. 617; Pub. L. 115–141, div. O, title III, §302(8), Mar. 23, 2018, 132 Stat. 1076.)

## REFERENCES IN TEXT

Public Law 96–586 (commonly known as the "Santini-Burton Act"), referred to in subsec. (b)(1), is Pub. L. 96–586, [Dec. 23, 1980](#), 94 Stat. 3381. 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 White Pine County Conservation, Recreation, and Development Act of 2006, referred to in subsec. (b)(3), is title III of div. C of Pub. L. 109–432, [Dec. 20, 2006](#), 120 Stat. 3028, which enacted provisions set out as notes under sections 1241 and 1244 of Title 16, Conservation, and enacted and amended provisions listed in a table of Wilderness Areas set out under section 1132 of Title 16. For complete classification of this Act to the Code, see Short Title of 2006 Amendment note set out under section 1241 of Title 16 and Tables.

The Lincoln County Conservation, Recreation, and Development Act of 2004, referred to in subsec. (b)(4), is Pub. L. 108–424, [Nov. 30, 2004](#), 118 Stat. 2403, which enacted provisions set out as notes under sections 1241 and 1244 of Title 16, Conservation, and provisions listed in a table of Wilderness Areas set out under section 1132 of Title 16 and amended provisions listed in a table of National Wildlife Conservation Areas set out under section 668dd of Title 16. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 1241 of Title 16 and Tables.

The Omnibus Public Land Management Act of 2009, referred to in subsec. (b)(5) to (8), is Pub. L. 111–11, [Mar. 30, 2009](#), 123 Stat. 991. Subtitle F (§1501 et seq.) of title I of the Act enacted provisions listed in a table of Wilderness Areas set out under section 1132 of Title 16, Conservation, and amended section 1274 of Title 16. Subtitle O (§1971 et seq.) of title I of the Act enacted section 346a–6 of Title 16, amended sections

460www, 460xxx, and 1274 of Title 16, and enacted provisions set out as notes under sections 460www and 1274 of Title 16 and provisions listed in a table of Wilderness Areas set out under section 1132 of Title 16. Section 2601 of the Act is not classified to the Code. For complete classification of this Act to the Code, see 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.

## AMENDMENTS

**2018**—Subsec. (b)(1). Pub. L. 115–141, §302(8)(A), substituted "96–586" for "96–568" and a semicolon for "; or" at end.

Subsec. (b)(2). Pub. L. 115–141, §302(8)(B), inserted "Public Law 105–263;" before "112 Stat." and substituted a semicolon for period at end.

Subsec. (b)(3) to (8). Pub. L. 115–141, §302(8)(C), added pars. (3) to (8).

<sup>1</sup> *See References in Text note below.*