

## CODIFICATION

The text of section 2661(c) of this title, which was transferred to this section and redesignated subsec. (b) by Pub. L. 109-163, §2821(d), was based on Pub. L. 108-375, div. B, title XXVIII, §2821(a)(1), Oct. 28, 2004, 118 Stat. 2129.

## PRIOR PROVISIONS

A prior section 2664, acts Aug. 10, 1956, ch. 1041, 70A Stat. 148; Pub. L. 85-861, §33(a)(15), Sept. 2, 1958, 72 Stat. 1565; Pub. L. 96-513, title V, §511(90), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 97-31, §12(3)(A), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97-295, §1(32), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 100-26, §7(d)(6), Apr. 21, 1987, 101 Stat. 281, related to acquisition of property for lumber production, prior to repeal by Pub. L. 108-375, div. B, title XXVIII, §2821(b), Oct. 28, 2004, 118 Stat. 2129.

## AMENDMENTS

2011—Subsec. (a). Pub. L. 111-350, which directed substitution “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251 et seq.)”, was executed by making the substitution for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)” to reflect the probable intent of Congress.

2006—Pub. L. 109-163, §2821(c), renumbered section 2676 of this title as this section and substituted “Limitations on real property acquisition” for “Acquisition: limitation” in section catchline.

Subsec. (a). Pub. L. 109-163, §2821(b)(1), inserted heading and struck out “, as amended” after “Federal Property and Administrative Services Act of 1949” in text.

Subsec. (b). Pub. L. 109-163, §2821(d), redesignated subsec. (c) of section 2661 of this title as subsec. (b) of this section.

Pub. L. 109-163, §2821(a)(10), transferred subsec. (b) to section 2663 of this title.

Subsec. (c). Pub. L. 109-163, §2821(b)(2)(A), inserted heading.

Subsec. (c)(2). Pub. L. 109-163, §2821(b)(2)(B), substituted “Until subsection (d) is complied with, a land” for “A land” in introductory provisions and “lesser,” for “lessor,” in subpar. (B) and struck out concluding provisions which read “until subsection (d) is complied with.”

Subsec. (d). Pub. L. 109-163, §2821(b)(3), inserted heading.

Subsec. (e). Pub. L. 109-163, §2821(b)(4), inserted heading.

2004—Subsec. (d). Pub. L. 108-375 substituted “congressional defense committees” for “appropriate committees of Congress”.

2003—Subsec. (d). Pub. L. 108-136 inserted before period at end “or, if over sooner, a period of 14 days elapses from the date on which a copy of that notification is provided in an electronic medium pursuant to section 480 of this title”.

2002—Subsec. (a). Pub. L. 107-314 inserted opening parenthesis before “41 U.S.C.”.

Pub. L. 107-217 inserted “subtitle I of title 40 and title III of” before “the Federal Property and Administrative Services Act of 1949” and substituted “41 U.S.C. 251 et seq.” for “(40 U.S.C. 471 et seq.)”.

1991—Subsec. (d). Pub. L. 102-190 struck out “(1)” after “be awarded only” and “, or (2) upon the approval of those committees, if before the end of that period each such committee approves the proposed reduced scope or increased cost” before period at end.

1986—Subsec. (c)(2)(B). Pub. L. 99-661 amended generally language of subpar. (B) before “exceeds the amount”. See 1984 Amendment note below.

1984—Subsec. (c)(2). Pub. L. 98-407, §802(1), inserted “or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land” in provisions preceding subpar. (A).

Subsec. (c)(2)(B). Pub. L. 98-407, §802(2), inserted “or, in the case of land to be acquired by condemnation, the amount to be deposited with the court as just compensation for the land.”. Insertion of new language following “the agreed price for the land” was executed to text notwithstanding directory language of Pub. L. 98-407 that made a reference to a nonexistent comma following “the agreed price for the land”. See 1986 Amendment note above.

Subsec. (e). Pub. L. 98-407, §802(3), added subsec. (e). 1982—Pub. L. 97-214 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

1973—Pub. L. 93-166 made limitation inapplicable to property acquired under authority of Administrator of General Services to acquire property by exchange of Government property.

## EFFECTIVE DATE OF 1986 AMENDMENT

Section 1343(a)(17)(B) of Pub. L. 99-661 provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the enactment of section 802(2) of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1519) [amending this section].”

## EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-214 effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing authorized before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of this title.

**§ 2665. Sale of certain interests in land; logs**

(a) The President, through an executive department, may sell to any person or foreign government any interest in land that is acquired for the production of lumber or timber products, except land under the control of the Department of the Army or the Department of the Air Force.

(b) The President, through an executive department, may sell to any person or foreign government any forest products produced on land owned or leased by a military department or the Department in which the Coast Guard is operating.

(c) Sales under subsection (a) or (b) shall be at prices determined by the President acting through the selling agency.

(d) Appropriations of the Department of Defense may be reimbursed for all costs of production of forest products pursuant to this section from amounts received as proceeds from the sale of any such property.

(e)(1) Each State in which is located a military installation or facility from which forest products are sold in a fiscal year is entitled at the end of such year to an amount equal to 40 percent of (A) the amount received by the United States during such year as proceeds from the sale of forest products produced on such installation or facility, less (B) the amount of reimbursement of appropriations of the Department of Defense under subsection (d) during such year attributable to such installation or facility.

(2) The amount paid to a State pursuant to paragraph (1) shall be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the military installation or facility is situated.

(3) In a case in which a military installation or facility is located in more than one State or county, the amount paid pursuant to paragraph

(1) shall be distributed in a manner proportional to the area of such installation or facility in each State or county.

(f)(1) There is in the Treasury a reserve account administered by the Secretary of Defense for the purposes of this section. Balances in the account may be used for costs of the military departments—

(A) for improvements of forest lands;

(B) for unanticipated contingencies in the administration of forest lands and the production of forest products for which other sources of funds are not available in a timely manner; and

(C) for natural resources management that implements approved plans and agreements.

(2) There shall be deposited into the reserve account the total amount received by the United States as proceeds from the sale of forest products sold under subsections (a) and (b) less—

(A) reimbursements of appropriations made under subsection (d), and

(B) payments made to States under subsection (e).

(3) The reserve account may not exceed \$4,000,000 on December 31 of any calendar year. Unobligated balances exceeding \$4,000,000 on that date shall be deposited into the United States Treasury.

(Aug. 10, 1956, ch. 1041, 70A Stat. 149; Pub. L. 95-82, title VI, §610, Aug. 1, 1977, 91 Stat. 378; Pub. L. 96-513, title V, §511(91), Dec. 12, 1980, 94 Stat. 2928; Pub. L. 97-31, §12(3)(B), Aug. 6, 1981, 95 Stat. 153; Pub. L. 97-99, title IX, §910(a), Dec. 23, 1981, 95 Stat. 1386; Pub. L. 97-295, §1(33), Oct. 12, 1982, 96 Stat. 1296; Pub. L. 98-407, title VIII, §809(a), Aug. 28, 1984, 98 Stat. 1522; Pub. L. 99-561, §4, Oct. 27, 1986, 100 Stat. 3151; Pub. L. 107-296, title XVII, §1704(b)(4), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109-163, div. A, title X, §1056(c)(6), Jan. 6, 2006, 119 Stat. 3439.)

HISTORICAL AND REVISION NOTES  
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2665(a) .....	50:172 (last par., less 36th through 64th, and 73d through 109th, words).	July 9, 1918, ch. 143, subch. XV, §8 (last par.), 40 Stat. 888.
2665(b) .....	50:172 (36th through 64th words of last par.).	
2665(c) .....	50:172 (73d through 90th words of last par.).	
2665(d) .....	50:172 (91st through 109th words of last par.).	

In subsection (a), the words “an executive department or the Federal Maritime Board” are substituted for the words “any department or the United States Maritime Commission” to reflect an opinion of the Judge Advocate General of the Army (JAGA 1954/1723) and to name the successor of the United States Maritime Commission. The last 18 words are inserted to reflect that opinion (see the Act of February 20, 1931 (10 U.S.C. 1354)). The words “and dispose of” are omitted as surplusage.

In subsection (b), the words “an executive department or the Federal Maritime Board” are inserted for clarity and to name the successor of the United States Maritime Commission.

In subsections (a) and (b), the word “person” is substituted for the words “individuals, corporations,” since section 1 of title 1 defines the word “person” to cover both individuals and corporations. The words “States or” are omitted as surplusage.

In subsection (c), the words “the selling agency” are substituted for the words “his above representatives selling or disposing of the same”.

1982 Act

This corrects an error in an amendment to 10:2665 made by section 12(3)(B) of the Maritime Act of 1981 (Pub. L. 97-31, Aug. 6, 1981, 95 Stat. 153).

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163 struck out “under section 2664 of this title” after “land that is acquired”.

2002—Subsec. (b). Pub. L. 107-296 substituted “Department in which the Coast Guard is operating” for “Department of Transportation”.

1986—Subsec. (d). Pub. L. 99-561, §4(1), struck out “available for operation and maintenance during a fiscal year” after “Defense”, substituted “costs” for “expenses”, and struck out “during such fiscal year” after “such property”.

Subsec. (e)(1). Pub. L. 99-561, §4(2), struck out “for all expenses of production of forest products” after “subsection (d)”.

Subsec. (f)(1). Pub. L. 99-561, §4(3)(A), (B), substituted “costs” for “expenses” in provisions preceding subpar. (A) and amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “for expenses to enable operations of forest lands and the production of forest products to continue from the end of one fiscal year through the beginning of the next fiscal year without disruption.”

Subsec. (f)(2), (3). Pub. L. 99-561, §4(3)(C), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) read as follows:

“(2) Subject to paragraph (3), there shall be deposited into the reserve account not later than December 31 of each year, for credit to the preceding fiscal year, an amount equal to one-half of the amount (if any) remaining of the total amount received by the United States during that fiscal year as proceeds from the sale of forest products after (A) the reimbursement of appropriations of the Department of Defense under subsection (d) for expenses of production of forest products during that fiscal year, and (B) the payment to States under subsection (e) for that fiscal year.

“(3) The balance in the reserve account may not exceed \$4,000,000. If a deposit under paragraph (2) would cause the balance in the account to exceed that amount, the deposit shall be made only to the extent the amount of the deposit would not cause the balance in the account to exceed \$4,000,000.”

1984—Subsec. (b). Pub. L. 98-407, §809(a)(1), substituted “forest products produced on land owned or leased by a military department or the” for “logs wholly or partly manufactured by, or otherwise procured for, the Army, Navy, or Air Force, or”.

Subsec. (d). Pub. L. 98-407, §809(a)(2), substituted “forest products” for “lumber and timber products”.

Subsec. (e)(1). Pub. L. 98-407, §809(a)(3), substituted “forest products” for “timber and timber products” in two places and “40 percent” for “25 percent”.

Subsec. (f). Pub. L. 98-407, §809(a)(4), added subsec. (f).

1982—Subsecs. (a), (b). Pub. L. 97-295 substituted “executive department, may sell” for “executive department” 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

Section 809(b) of Pub. L. 98-407 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

Section 910(b) of Pub. L. 97-99 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; and

(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.

(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:

(A) Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities under the control of the Secretary concerned.

(B) Construction of new facilities for the Secretary concerned.

(C) Provision of facilities for use by the Secretary concerned.

(D) Provision or payment of utility services for the Secretary concerned.

(E) Provision of real property maintenance services for the Secretary concerned.

(F) Provision of such other services relating to activities that will occur on the leased property as the Secretary concerned considers appropriate.

(2) In-kind consideration under paragraph (1) may be accepted at any property or facilities