

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO
LEASE CERTAIN LANDS IN VIRGIN ISLANDS NATIONAL
PARK, AND FOR OTHER PURPOSES

FEBRUARY 28, 2008.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 1143]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1143) to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. DEFINITIONS.

In this Act, the following definitions apply:

- (1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (2) RUE.—The term “RUE” means the retained use estate entered into by the Jackson Hole Preserve and the United States on September 30, 1983.
- (3) PARK.—The term “park” means Virgin Islands National Park.
- (4) CBI.—The term “CBI” means CBI Acquisitions, LLC.
- (5) RESORT.—The term “Resort” means Caneel Bay Resort on the island of St. John in Virgin Islands National Park.

SEC. 2. LEASE AGREEMENT.

(a) AUTHORIZATION.—The Secretary may enter into a lease agreement with CBI governing the use of property for the continued management and operation of the Resort.

(b) ADDITIONAL LANDS.—Any lease entered into pursuant to this Act shall include the property covered by the RUE and any associated property owned by CBI donated to the National Park Service.

(c) TERMS.—The lease agreement authorized under subsection (a) shall—

- (1) require that operations and maintenance of the Resort are conducted in a manner consistent with the preservation and conservation of the resources and values of the Park as well as the best interests of the Resort;

(2) be for the minimum number of years practicable to enable the lessee to secure financing for any necessary improvements to the Resort, taking into account the financial obligations of CBI, but in any event shall not exceed 40 years;

(3) prohibit any transfer, assignment or sale of the lease or otherwise convey or pledge any interest in the lease without prior written notification to and approval by the Secretary;

(4) prohibit any increase in the number of guest accommodations available at the Resort;

(5) prohibit any increase in the overall size of the Resort;

(6) prohibit the sale of partial ownership shares or timeshares in the Resort;

(7) be designed to facilitate transfer of all property covered by the lease to Federal administration upon expiration of the lease; and

(8) include any other provisions determined by the Secretary to be necessary to protect the Park and the public interest.

(d) APPRAISALS.—The Secretary shall require appraisals to determine the fair market value of all property covered by the RUE and any property, including the value, if any, of the surrendered term of the RUE, owned by CBI to be donated, or otherwise conveyed, to the National Park Service. Such appraisals shall be conducted pursuant to the Uniform Appraisal Standards for Federal Land Acquisition.

(e) COMPENSATION.—

(1) IN GENERAL.—The lease authorized by this Act shall—

(A) require payment to the United States of the property's fair market value rent, taking into account the value of any associated property transferred by CBI as well as the value, if any, of the surrendered term of the RUE;

(B) include a provision—

(i) allowing recalculation of the amount of the payment required under this subsection, at the request of the Secretary or CBI, in the event of extraordinary unanticipated changes in conditions anticipated at the time the lease was finalized; and

(ii) providing for binding arbitration in the event the Secretary and CBI are unable to agree upon an adjustment to the payment in these circumstances.

(2) DISTRIBUTION.—Eighty percent of the payment to the United States required by this subsection shall be available to the Secretary, without further appropriation, for expenditure within the Park. The remaining twenty percent shall be deposited in the Treasury.

(3) APPLICABILITY OF CERTAIN LAW.—Section 321 of the Act of June 30, 1932 (40 U.S.C. 1302), relating to the leasing of buildings and property of the United States, shall not apply to the lease entered into by the Secretary pursuant to this Act.

SEC. 3. RETAINED USE ESTATE.

As a condition of the lease, CBI shall relinquish to the Secretary all rights under the RUE and transfer, without compensation, ownership of improvements covered by the RUE to the United States.

PURPOSE OF THE BILL

The purpose of H.R. 1143 is to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Caneel Bay is a luxury resort operated pursuant to a Retained Use Estate (RUE) on federal land within Virgin Islands National Park. The RUE expires in 2023, when any improvements on the land will revert to the National Park Service.

The current holder of the RUE has embarked on major renovations to Caneel Bay. However, the operators claim that the remaining life of the RUE does not afford sufficient time to provide the capital and attract the long-term financing for the improvements which are necessary to reverse the recent decline of the facilities at the resort.

H.R. 1143 authorizes the Secretary of the Interior, after expiration of the RUE, to enter into a lease with the holders of the RUE for continued operation of the resort on terms and conditions determined by the Secretary to be reasonable.

COMMITTEE ACTION

H.R. 1143 was introduced on February 16, 2007, by Rep. Donna Christensen (D-VI). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests, and Public Lands. On October 30, 2007, the Subcommittee held a hearing on the bill, during which the Administration testified in support of the bill's concept but requested the opportunity to work with the Committee regarding the bill's provisions.

On February 13, 2008, the full Natural Resources Committee met to mark up the bill. Subcommittee Chairman Raúl Grijalva (D-AZ) offered an amendment in the nature of a substitute that retained the original intent of the bill while placing additional conditions on the lease authority authorized under the bill. The Grijalva amendment was adopted by unanimous consent. The bill as amended was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Definitions

Section 1 defines the terms used in this act.

Section 2. Lease agreement

Subsection 2(a) authorizes the Secretary of the Interior to enter into the lease agreement with the current operators of Caneel Bay Resort. Subsection 2(b) defines the property covered by the lease.

Subsection 2(c) sets the terms of the lease. In particular, Section 2(c)1 requires resort operations and maintenance to be consistent with the preservation and conservation values of the Park and the best interests of the Resort. Section 2(c)2 sets the term of the lease as the minimum number of years necessary for the lessee to secure financing for improvements to the Resort, not to exceed 40 years. Section 2(c)3 prohibits any transfer or sale of the lease by the current lessee without approval by the Secretary. Section 2(c)4 prohibits any increase in the number of guest accommodations at the Resort. Section 2(c)5 prohibits expansion of the size of the Resort. Section 2(c)6 prohibits the sale or ownership of timeshares in the Resort. Section 2(c)7 states that the lease shall be designed to facilitate transfer of all facilities to Federal management upon expiration. Section 2(c)8 permits the inclusion of other provisions determined by the Secretary to be necessary to protect the Park and the public interest.

Subsection 2(d) requires the appraisal of all property covered by the RUE as well as any property to be donated or otherwise conveyed to the Federal government.

Section 2(e)1 requires the payment of fair market value rent to the United States by the lessee and permits recalculation of the rental payment in the event of unexpected circumstances and arbitration if the Secretary and the lessee disagree upon adjustments

to the rental payment. Section 2(e)2 requires that 80% of the rental payments be made available without further appropriation for expenditure within the Park and the remaining 20% deposited in the Treasury.

Section 3. Retained Use Estate

Section 3 directs the lessee to relinquish to the Secretary all rights under the RUE and transfer, without compensation, ownership of improvements covered by the RUE to the United States.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3, of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

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H.R. 1143 would authorize the National Park Service (NPS) to execute a lease with the owners of the Caneel Bay Resort on St. John in the Virgin Islands. Based on information provided by the NPS, CBO estimates that implementing the bill would have no effect on discretionary spending. Enacting the bill would increase both offsetting receipts (from lease payments) and direct spending of those receipts beginning in fiscal year 2009, but CBO estimates that any net effect on the federal budget would be negligible.

H.R. 1143 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Under the lease authorized by H.R. 1143, the owners of Caneel Bay would continue to operate the resort, which is located within the boundary of the Virgin Islands National Park, for up to 40 years. The resort is currently operated under a retained use estate (RUE) that will expire at the end of fiscal year 2023. The RUE was granted by the original owners of the resort when they donated the land under that facility to the NPS in 1983. The original RUE agreement did not provide for any lease payments to the federal government; the lease authorized by H.R. 1143 would. In addition, the bill would authorize the NPS to spend, without further appropriation, 80 percent of any new lease receipts.

The CBO staff contact for this estimate is Deborah Reis. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 1143 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

