

§ 698f. Big Cypress National Preserve; Big Cypress National Preserve Addition

(a) Establishment

In order to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof, the Big Cypress National Preserve is hereby established.

(b) Location; boundaries; publication in Federal Register; area

The Big Cypress National Preserve (hereafter referred to as the “preserve”) shall comprise the area generally depicted on the map entitled “Big Cypress National Preserve”, dated November 1971 and numbered BC-91,001, which shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and shall be filed with appropriate offices of Collier, Monroe, and Dade Counties in the State of Florida. The Secretary of the Interior (hereafter referred to as the “Secretary”) shall, as soon as practicable, publish a detailed description of the boundaries of the preserve in the Federal Register which shall include not more than five hundred and seventy thousand acres of land and water.

(c) Methods of acquisition of land; prerequisites to Federal appropriations; improved property; oil and gas rights; appraisal of property; transfer of Federal property to Secretary

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve or the Addition: *Provided*, That any lands owned or acquired by the State of Florida, or any of its subdivisions, in the preserve may be acquired by donation only and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d): *Provided further*, That no Federal funds shall be appropriated until the Governor of Florida executes an agreement on behalf of the State which (i) provides for the transfer to the United States of all lands within the preserve previously owned or acquired by the State and (ii) provides for the donation to the United States of all lands acquired by the State within the preserve pursuant to the provision of “the Big Cypress Conservation Act of 1973” (Chapter 73-131 of the Florida Statutes) or provides for the donation to the United States of any remaining moneys appropriated pursuant to such Act for the purchase of lands within the preserve. No improved property, as defined by sections 698f to 698m-4 of this title, nor oil and gas rights, shall be acquired without the consent of the owner unless the Secretary, in his judgment, determines that such property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the preserve. The Secretary may, if he determines that the acquisition of any other subsurface estate is not needed for the purposes

of the preserve and the Addition, exclude such interest in acquiring any lands within the preserve and the Addition. Notwithstanding the provisions of section 4651 of title 42 the Secretary (i) may evaluate any offer to sell land within the preserve or the Addition by any landowner and may, in his discretion, accept any offer not in excess of \$10,000 without an appraisal and (ii) may direct an appraisal to be made of any unimproved property within the preserve or the Addition without notice to the owner or owners, thereof. Notwithstanding any other provision of law, any federally owned lands within the preserve shall, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of sections 698f to 698m-4 of this title, without transfer of funds. Nothing in sections 698f to 698m-4 of this title shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.

(d) Land within Addition; United States share of acquisition costs

(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

(3) The amount described in paragraph (2) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

(4) For purposes of this subsection, the term “total cost” means that amount of the total acquisition costs (including the value of exchanged or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.

(Pub. L. 93-440, §1, Oct. 11, 1974, 88 Stat. 1258; Pub. L. 100-301, §4(a)-(e), Apr. 29, 1988, 102 Stat. 444, 445; Pub. L. 108-483, §2, Dec. 23, 2004, 118 Stat. 3920.)

Editorial Notes

AMENDMENTS

2004—Subsec. (d)(3). Pub. L. 108-483 substituted “The amount described in paragraph (2)” for “The amount described in paragraph (1)”.

1988—Subsec. (c). Pub. L. 100-301, §4(b), inserted in provisions before first proviso “or the Addition” after “boundaries of the preserve” and in first proviso “in the preserve” after “subdivisions,” and “and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d)” before the colon.

Pub. L. 100-301, §4(e), inserted “and the Addition” after “for the purposes of the preserve” and after “any lands within the preserve” in third sentence.

Pub. L. 100-301, §4(c), inserted “or the Addition” after “land within the preserve” and after “property within the preserve” in fourth sentence.

Pub. L. 100-301, §4(d), inserted at end “Nothing in sections 698f to 698m-4 of this title shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.”

Subsec. (d). Pub. L. 100-301, §4(a), added subsec. (d).

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-301, §1(a), Apr. 29, 1988, 102 Stat. 443, provided that: “This Act [enacting sections 698m-1 to 698m-4 of this title, amending this section and sections 698h and 698j to 698m of this title, and enacting provisions set out below] may be cited as the ‘Big Cypress National Preserve Addition Act.’”

FINDINGS AND PURPOSE

Pub. L. 100-301, §2, Apr. 29, 1988, 102 Stat. 443, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) the planned construction of Interstate 75 is presently being designed in such a way as to improve the natural water flow to the Everglades National Park, which has been disrupted by State Road 84 (commonly known as ‘Alligator Alley’);

“(2) the planned construction of Interstate 75 provides an opportunity to enhance protection of the Everglades National Park, to promote protection of the endangered Florida panther, and to provide for public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve to include those lands adjacent to Interstate 75 in Collier County north and east of the Big Cypress National Preserve, west of the Broward County line, and south of the Hendry County line;

“(3) the Federal acquisition of lands bordering the Big Cypress National Preserve in conjunction with the construction of Interstate 75 would provide significant public benefits by limiting development pressure on lands which are important both in terms of fish and wildlife habitat supporting endangered species and of wetlands which are the headwaters of the Big Cypress National Preserve; and

“(4) public ownership of lands adjacent to the Big Cypress National Preserve would enhance the protection of the Everglades National Park while providing recreational opportunities and other public uses currently offered by the Big Cypress National Preserve.

“(b) PURPOSE.—It is the purpose of this Act [see Short Title of 1988 Amendment note above] to establish the Big Cypress National Preserve Addition.”

§ 698g. Acquisition of lands for Big Cypress Preserve

(a) Expeditious acquisition of Florida lands

In recognition of the efforts of the State of Florida in the preservation of the area, through the enactment of chapter 73-131 of the Florida statutes, “The Big Cypress Conservation Act of 1973”, the Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of sections 698f to 698m-4 of this title.

(b) Submission of plan to Congressional committees; time; contents

Within one year after October 11, 1974, the Secretary shall submit, in writing, to the Committee¹ on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this preserve.

(ii) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of this preserve, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(c) Time for completion of land acquisition program

It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by sections 698f to 698m-4 of this title within six years after October 11, 1974.

(Pub. L. 93-440, §2, Oct. 11, 1974, 88 Stat. 1259.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the “Committee System Reorganization Amendments of 1977”), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 698h. Right of use and occupancy of improved property on Big Cypress Preserve and Addition

(a) Election of right of use and occupancy; payment of fair market value; termination of right

The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use of and occupancy of the improved property for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of sections 698f to 698m-4 of this title, which shall include the exercise of such right in violation of any applicable State or local laws and ordinances, and it shall terminate by operation of law upon the Secretary’s notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) “Improved property” defined

As used in sections 698f to 698m-4 of this title, the term “improved property” means:

(i) a detached one family dwelling, construction of which was begun before November 23,

¹ So in original. Probably should be “Committees”.