

(R.S. § 1827.)

#### Editorial Notes

##### CODIFICATION

Section was classified to section 216 of former Title 40, prior to the enactment of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, § 1, Aug. 21, 2002, 116 Stat. 1062.

R.S. § 1827 derived from act Mar. 3, 1873, ch. 226, § 1, 17 Stat. 491.

#### § 2143. Utilization of personnel by Architect of the Capitol for maintenance and operation of Botanic Garden

On and after December 27, 1974, with the approval of the Joint Committee on the Library, the Architect of the Capitol may utilize personnel paid from appropriations under his control for performance of administrative and clerical duties in connection with the maintenance and operation of the United States Botanic Garden, to such extent as he may deem feasible.

(Pub. L. 93-554, title I, ch. III, Dec. 27, 1974, 88 Stat. 1777.)

#### Editorial Notes

##### CODIFICATION

Section was classified to section 216b of former Title 40, prior to the enactment of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, § 1, Aug. 21, 2002, 116 Stat. 1062.

#### § 2144. Disbursement of appropriations for Botanic Garden

On and after November 5, 1990, all appropriations made on account of the Botanic Garden shall be disbursed for that purpose in the same manner as other appropriations under the control of the Architect of the Capitol.

(Pub. L. 101-520, title II, Nov. 5, 1990, 104 Stat. 2270.)

#### Editorial Notes

##### CODIFICATION

Section was classified to section 216d of former Title 40, prior to the enactment of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, § 1, Aug. 21, 2002, 116 Stat. 1062.

#### § 2145. Restriction on use of appropriation for Botanic Garden

On and after July 31, 1958, no part of any appropriation for the Botanic Garden shall be used for the distribution, by congressional allotment, of trees, plants, shrubs, or other nursery stock.

(Pub. L. 85-570, July 31, 1958, 72 Stat. 450.)

#### Editorial Notes

##### CODIFICATION

Section was classified to section 216a of former Title 40, prior to the enactment of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, § 1, Aug. 21, 2002, 116 Stat. 1062.

#### § 2146. National Garden

##### (a) Establishment; gifts

The Architect of the Capitol, subject to the direction of the Joint Committee on the Library, is authorized to—

(1) construct a National Garden demonstrating the diversity of plants, including the rose, our national flower, to be located between Maryland and Independence Avenues, S.W., and extending from the Botanic Garden Conservatory to Third Streets, S.W., in the District of Columbia; and

(2) solicit, receive, accept, and hold gifts, including money, plant material, and other property, on behalf of the Botanic Garden, and to dispose of, utilize, obligate, expend, disburse, and administer such gifts for the benefit of the Botanic Garden, including among other things, the carrying out of any programs, duties, or functions of the Botanic Garden, and for constructing, equipping, and maintaining the National Garden referred to in paragraph (1).

##### (b) Gifts and bequests of money; investment; appropriations

(1) Gifts or bequests of money under subsection (a)(2) shall, when received by the Architect, be deposited with the Treasurer of the United States, who shall credit these deposits as offsetting collections to an account entitled “Botanic Garden, Gifts and Donations”. The gifts or bequests described under subsection (a)(2) shall be accepted only in the total amount provided in appropriations Acts.

(2) The Secretary of the Treasury shall invest any portion of the account designated in paragraph (1) that, as determined by the Architect, is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States or an obligation guaranteed both as to principal and interest by the United States that, as determined by the Architect, has a maturity date suitable for the purposes of the account. The Secretary of the Treasury shall credit interest earned on the obligations to the account.

(3) Receipts, obligations, and expenditures of funds under this section shall be included in annual estimates submitted by the Architect for the operation and maintenance of the Botanic Garden and such funds shall be expended by the Architect, without regard to section 6101 of title 41, for the purposes of this section after approval in appropriation Acts. All such sums shall remain available until expended, without fiscal year limitation.

##### (c) Donations of personal services

(1) In carrying out this section and his duties, the Architect of the Capitol may accept personal services, including educationally related work assignments for students in nonpay status, if the service is to be rendered without compensation.

(2) No person shall be permitted to donate his or her personal services under this section unless such person has first agreed, in writing, to waive any and all claims against the United States arising out of or in connection with such services, other than a claim under the provisions of chapter 81 of title 5.

(3) No person donating personal services under this section shall be considered an employee of the United States for any purpose other than for purposes of chapter 81 of title 5.

(4) In no case shall the acceptance of personal services under this section result in the reduc-

tion of pay or displacement of any employee of the Botanic Garden.

#### (d) Tax deductions

Any gift accepted by the Architect of the Capitol under this section shall be considered a gift to the United States for purposes of income, estate, and gift tax laws of the United States.

(Pub. L. 100-458, title III, §307E, Oct. 1, 1988, 102 Stat. 2183; Pub. L. 102-229, title II, §209(a), Dec. 12, 1991, 105 Stat. 1716; Pub. L. 104-53, title II, §201(b), Nov. 19, 1995, 109 Stat. 529; Pub. L. 105-275, title II, §201, Oct. 21, 1998, 112 Stat. 2445.)

#### Editorial Notes

##### CODIFICATION

In subsec. (b)(3), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was classified to section 216c of former Title 40, prior to the enactment of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, §1, Aug. 21, 2002, 116 Stat. 1062.

##### AMENDMENTS

1998—Subsec. (b)(2), (3). Pub. L. 105-275 added par. (2) and redesignated former par. (2) as (3).

1995—Subsec. (a)(1). Pub. L. 104-53 substituted “plants” for “plans”.

1991—Pub. L. 102-229 amended section generally. Prior to amendment, section read as follows: “The Architect of the Capitol, subject to the direction of the Joint Committee on the Library, is authorized to—

“(1) construct a National Garden demonstrating the diversity of plants, including the rose, our national flower, to be located between Maryland and Independence Avenues, S.W., and extending from the United States Botanic Garden Conservatory to Third Street, S.W., in the District of Columbia; and

“(2) accept gifts, including money, plants, volunteer time, planning, construction and installation expenses, assistance and implements, and garden structures, on behalf of the United States Botanic Garden for the purpose of constructing the National Garden described in paragraph (1).”

#### Statutory Notes and Related Subsidiaries

##### FUNDS AVAILABLE FOR CONSTRUCTING, EQUIPPING, AND MAINTAINING NATIONAL GARDEN

Pub. L. 102-392, title II, §201, Oct. 6, 1992, 106 Stat. 1716, as amended by Pub. L. 104-53, title II, §201(a), Nov. 19, 1995, 109 Stat. 529; Pub. L. 106-554, §1(a)(2) [title III, §312], Dec. 21, 2000, 114 Stat. 2763, 2763A-120; Pub. L. 107-68, title I, §135, Nov. 12, 2001, 115 Stat. 583, provided that:

“(a) Pursuant to section 307E of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c) [now 2 U.S.C. 2146], not more than \$16,500,000 shall be accepted and not more than \$16,500,000 of the amounts accepted shall be available for obligation by the Architect of the Capitol for constructing, equipping, and maintaining the National Garden.

“(b) The Architect of the Capitol is authorized to solicit, receive, accept, and hold amounts under section 307E(a)(2) of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c(a)(2)) [now 2 U.S.C. 2146(a)(2)] in excess of the \$16,500,000 authorized under subsection (a), but such amounts (and any interest thereon) shall not be expended by the Architect without approval in appropriation Acts as required under section 307E(b)(3) of such Act (40 U.S.C. 216c(b)(3)) [now 2 U.S.C. 2146(b)(3)].”

##### RENOVATION OF CONSERVATORY OF BOTANIC GARDEN

Pub. L. 102-229, title II, §209(b), Dec. 12, 1991, 105 Stat. 1717, provided that under section 2146 of this title, not

more than \$2,000,000 could be accepted or available for obligation by the Architect for certain preparations for renovation of the Conservatory of the Botanic Garden.

#### § 2147. Plant material exchanges

On and after July 8, 1935, plant material exchanges may be made with botanic gardens, institutions, municipal parks, and gardens.

(July 8, 1935, ch. 374, 49 Stat. 471.)

#### Editorial Notes

##### CODIFICATION

Section was classified to section 217a of former Title 40, prior to the enactment of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, §1, Aug. 21, 2002, 116 Stat. 1062.

Section is based on par. under heading “BOTANIC GARDEN” in act of July 8, 1935, known as the “Legislative Branch Appropriation Act, 1936”.

#### § 2148. Administration of educational outreach and services

##### (a) Cooperative agreements

The Architect of the Capitol, subject to the direction of the Joint Committee of Congress on the Library, may enter into cooperative agreements with entities under such terms as the Architect determines advisable, in order to support the United States Botanic Garden in carrying out its duties, authorities, and mission.

##### (b) No-cost agreements

(1) The Architect of the Capitol may, subject to the direction of the Joint Committee of Congress on the Library, enter into a no-cost agreement, through a contract, cooperative agreement, or memorandum of understanding, with a qualified entity to conduct, or provide support for, an educational exhibit, program, class, or outreach that benefits the educational mission of the United States Botanic Garden.

(2) Any agreement under paragraph (1) may—

(A) allow the qualified entity to accept fees for any program or class described in paragraph (1) in order to cover all or a portion of the entity's costs of any supplies, honoraria, or associated expenses for the program or class; and

(B) subject to such terms as the Architect considers appropriate and necessary, grant temporary concessions to the qualified entity, or allow the qualified entity to grant temporary concessions to another person, in connection with an educational exhibit, program, class, or outreach described in paragraph (1), including concessions for food and merchandise sales that are specifically related to the educational mission involved.

(3) Section 5104(c) of title 40 shall not apply to any activity carried out under this subsection.

(4) In this subsection, the term “qualified entity” means—

(A) the National Fund for the United States Botanic Garden; and

(B) any other organization described in section 501(c) of title 26 and exempt from tax under section 501(a) of such title that the Architect of the Capitol determines shares interests complementary to the educational mission of the United States Botanic Garden.