

Federal Land Transaction Facilitation Act
Track Changes of the U.S. Code for FLTFA (43 USC Ch. 41, §2301-2306) and the Final Passed Bill
(FY2018 Omnibus Appropriations Act)
3/23/2018

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.

§2302. Definitions

In this chapter:

(1) Exceptional resource

The term "exceptional resource" means a resource of scientific, natural, historic, ~~cultural or cultural~~ recreational access and use, or other 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 ~~on July 25, 2000, was 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

Commented [A1]: Increases public access to public lands. Adds "recreational access and use" to the exceptional resource definition. FLTFA can fund land acquisitions "adjacent to federally designated areas" (edgeholdings), if the land "contains exceptional resources." (43 USC section 2405(c)(2)(A)(ii)).

Commented [A2]: Strikes date limitation on federal areas for acquisition. This is a needed update, and part of a compromise that includes striking the date limitation on BLM lands identified for disposal that are sold for FLTFA.

Planning Handbook H-1601-1 (Rel 1-1693), a special recreation management area, or 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) an area of the National Forest System designated for special management by an Act of Congress; or National Forest or National Grassland in the National Forest System;

(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 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)) 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

(3) 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.

(4) Public land

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

(5) Secretary

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

Commented [A3]: Adds two BLM land acquisition areas, in order to protect wildlife habitat ("priority species and habitats") and increase access to recreation ("special recreation management areas").

Commented [A4]: Clarifies USFS designations.

§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—

(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 ~~(as in effect on July 25, 2000)~~ under section 1712 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); ~~(2) not later than 180 days after the date of the enactment of the Federal Land Transaction Facilitation Act Reauthorization of 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).~~

~~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.~~

(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.

~~**(d) Termination of authority**~~

~~The authority provided under this section shall terminate 11 years after July 25, 2000.~~

§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 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

Commented [A5]: This language was in the original Act, with the update that there is no longer a date limitation on BLM lands identified for disposal in Land Use Plans. This language will allow BLM land sales revenue to go to the Federal Land Disposal Account (FLTFA Account), and the date of the LUP will not be a factor.

Commented [A6]: Adds the requirement for BLM to produce a database of lands identified for disposal, in 180 days

Commented [A7]: Adds a section about maintaining the database mentioned in (2)

Commented [A8]: Strikes the date limitation of the year 2000 on BLM lands identified for disposal in BLM land use plans, so that when BLM creates or updates future LUPs, FLTFA will apply to those plans.

Commented [A9]: Strikes termination of authority, creating a permanent authority.

(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; ~~and~~

(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 ¹ 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 to 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.

Commented [A10]: Unobligated funds may be spent in any state after four years.

(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;

Commented [A11]: Adds public access to hunting, fishing and other recreational activities to the priority list.

(~~B~~C) the extent to which acquisition of the land or interest therein will facilitate management efficiency;
and

(~~C~~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.

~~(f) Termination~~

~~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 3 of the Land and Water Conservation Fund Act (16 U.S.C. 4601-6).~~

Commented [A12]: Note: Chapter 2003 of Title 54 is the Land and Water Conservation Fund

Commented [A13]: Strikes Termination, creating a permanent authority.

§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 ~~96-568~~⁹⁶⁻⁵⁸⁶ (commonly known as the "Santini-Burton Act") (94 Stat. 3381); ~~or~~

Commented [A14]: Fixes the incorrect PL number.

(2) the Southern Nevada Public Land Management Act of 1998 (Public Law 105-263; 112 Stat. 2343); ~~or~~

Commented [A15]: Adds the Public Law number.

(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);

Commented [A16]: Note: Owyhee Public Land Management Act of 2009

(6) subtitle O of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 160www note, 1132 note; Public Law 111-11);

Commented [A17]: Note: Washington County, Utah, Public Lands Management Implementation Act

(7) section 2601 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1108);

Commented [A18]: Note: Land Conveyance in Carson City, NV

(8) section 2606 of the Omnibus Public Land Management Act of 2009 (Public Law 111-11; 123 Stat. 1121).

Commented [A19]: Note: Land Conveyance in Douglas County, WA

(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 ¹ 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.

Commented [A20]: Sections (3)-(8) are items passed in the 2009 Public Lands Omnibus (P.L. 111-11) and this language is explicit recognition that FLTFA will not interfere with those laws.