

HRpt 106-301, CONFERENCE REPORT ON S. 1059
NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

SEC. 2821. ECONOMIC DEVELOPMENT CONVEYANCES OF BASE CLOSURE PROPERTY.

(a) 1990 Law: Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended--

(1) in subparagraph (A)--

(A) by inserting 'or realigned' after 'closed'; and

(B) by inserting 'for purposes of job generation on the installation' before the period at the end;

(2) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (E), (F), (G), and (J), respectively;

(3) by striking subparagraph (B) and inserting the following new subparagraphs:

(B) The transfer of property of a military installation under subparagraph (A) shall be without consideration if the redevelopment authority with respect to the installation--

(i) agrees that the proceeds from any sale or lease of the property (or any portion thereof) received by the redevelopment authority during at least the first seven years after the date of the transfer under subparagraph (A) shall be used to support the economic redevelopment of, or related to, the installation; and

(ii) executes the agreement for transfer of the property and accepts control of the property within a reasonable time after the date of the property disposal record of decision or finding of no significant impact under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(C) For purposes of subparagraph (B), the use of proceeds from a sale or lease described in such subparagraph to pay for, or offset the costs of, public investment on or related to the installation for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to, the installation:

(i) Road construction.

(ii) Transportation management facilities.

(iii) Storm and sanitary sewer construction.

(iv) Police and fire protection facilities and other public facilities.

(v) Utility construction.

(vi) Building rehabilitation.

(vii) Historic property preservation.

(viii) Pollution prevention equipment or facilities.

`(ix) Demolition.

`(x) Disposal of hazardous materials generated by demolition.

`(xi) Landscaping, grading, and other site or public improvements.

`(xii) Planning for or the marketing of the development and reuse of the installation.

`(D) The Secretary may recoup from a redevelopment authority such portion of the proceeds from a sale or lease described in subparagraph (B) as the Secretary determines appropriate if the redevelopment authority does not use the proceeds to support economic redevelopment of, or related to, the installation for the period specified in subparagraph (B).';

(4) in subparagraph (F), as redesignated by paragraph (2)--

(A) by striking `(i)'; and

(B) by striking clause (ii); and

(5) by inserting after subparagraph (F), as so redesignated, the following new subparagraphs:

`(H)(i) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into before April 21, 1999, the Secretary may modify the agreement, and in so doing compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States, if--

`(I) the Secretary determines that as a result of changed economic circumstances, a modification of the agreement is necessary;

`(II) the terms of the modification do not require the return of any payments that have been made to the Secretary;

`(III) the terms of the modification do not compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States with respect to in-kind consideration; and

`(IV) the cash consideration to which the United States is entitled under the modified agreement, when combined with the cash consideration to be received by the United States for the disposal of other real property assets on the installation, are as sufficient as they were under the original agreement to fund the reserve account established under section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act, with the depreciated value of the investment made with commissary store funds or nonappropriated funds in property disposed of pursuant to the agreement being modified, in accordance with section 2906(d).

`(ii) When exercising the authority granted by clause (i), the Secretary may waive some or all future payments if, and to the extent that, the Secretary determines such waiver is necessary.

`(iii) With the exception of the requirement that the transfer be without consideration, the requirements of subparagraphs (B), (C), and (D) shall be applicable to any agreement modified pursuant to clause (i).

`(I) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into during the period beginning on April 21, 1999, and ending on the date of enactment of the National Defense Authorization Act for Fiscal Year 2000, at the request of the redevelopment

authority concerned, the Secretary shall modify the agreement for to conform to all the requirements of subparagraphs (B), (C), and (D). Such a modification may include the compromise, waiver, adjustment, release, or reduction of any right, title, claim, lien, or demand of the United States under the agreement.'

(b) 1988 Law: Section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended--

(1) in subparagraph (A)--

(A) by inserting `or realigned' after `closed'; and

(B) by inserting `for purposes of job generation on the installation' before the period at the end;

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (E), (F), and (I), respectively;

(3) by striking subparagraph (B) and inserting the following new subparagraphs:

`(B) The transfer of property of a military installation under subparagraph (A) shall be without consideration if the redevelopment authority with respect to the installation--

`(i) agrees that the proceeds from any sale or lease of the property (or any portion thereof) received by the redevelopment authority during at least the first seven years after the date of the transfer under subparagraph (A) shall be used to support the economic redevelopment of, or related to, the installation; and

`(ii) executes the agreement for transfer of the property and accepts control of the property within a reasonable time after the date of the property disposal record of decision or finding of no significant impact under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

`(C) For purposes of subparagraph (B), the use of proceeds from a sale or lease described in such subparagraph to pay for, or offset the costs of, public investment on or related to the installation for any of the following purposes shall be considered a use to support the economic redevelopment of, or related to, the installation:

`(i) Road construction.

`(ii) Transportation management facilities.

`(iii) Storm and sanitary sewer construction.

`(iv) Police and fire protection facilities and other public facilities.

`(v) Utility construction.

`(vi) Building rehabilitation.

`(vii) Historic property preservation.

`(viii) Pollution prevention equipment or facilities.

`(ix) Demolition.

`(x) Disposal of hazardous materials generated by demolition.

`(xi) Landscaping, grading, and other site or public improvements.

`(xii) Planning for or the marketing of the development and reuse of the installation.

`(D) The Secretary may recoup from a redevelopment authority such portion of the proceeds from a sale or lease described in subparagraph (B) as the Secretary determines appropriate if the redevelopment authority does not use the proceeds to support economic redevelopment of, or related to, the installation for the period specified in subparagraph (B).';

(4) in subparagraph (E), as redesignated by paragraph (2)--

(A) by striking `(i)'; and

(B) by striking clause (ii); and

(5) by inserting after subparagraph (F) the following new subparagraphs:

`(G)(i) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into before April 21, 1999, the Secretary may modify the agreement, and in so doing compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States, if--

`(I) the Secretary determines that as a result of changed economic circumstances, a modification of the agreement is necessary;

`(II) the terms of the modification do not require the return of any payments that have been made to the Secretary;

`(III) the terms of the modification do not compromise, waive, adjust, release, or reduce any right, title, claim, lien, or demand of the United States with respect to in-kind consideration; and

`(IV) the cash consideration to which the United States is entitled under the modified agreement, when combined with the cash consideration to be received by the United States for the disposal of other real property assets on the installation, are as sufficient as they were under the original agreement to fund the reserve account established under paragraph (7)(C), with the depreciated value of the investment made with commissary store funds or nonappropriated funds in property disposed of pursuant to the agreement being modified, in accordance with section 2906(d) of the Defense Base Closure and Realignment Act of 1990.

`(ii) When exercising the authority granted by clause (i), the Secretary may waive some or all future payments if, and to the extent that, the Secretary determines such waiver is necessary.

`(iii) With the exception of the requirement that the transfer be without consideration, the requirements of subparagraphs (B), (C), and (D) shall be applicable to any agreement modified pursuant to clause (i).

`(H) In the case of an agreement for the transfer of property of a military installation under this paragraph that was entered into during the period beginning on April 21, 1999, and ending on the date of enactment of the National Defense Authorization Act for Fiscal Year 2000, at the request of the redevelopment authority concerned, the Secretary shall modify the agreement for to conform to all the requirements of subparagraphs (B), (C), and (D). Such a modification may include the compromise, waiver, adjustment, release, or reduction of any right, title, claim, lien, or demand of the United States under the agreement.'

Subtitle C--Defense Base Closure and Realignment

Economic development conveyance of base closure property (sec. 2821)

The Senate bill contained a provision (sec. 2821) that would amend the Defense Base Closure and Realignment Act of 1990 (division D of Public Law 101-510) and the 1988 Base Realignment and Closure Act (division B of Public Law 100-526). The provision would authorize the Secretary of military departments concerned to transfer, without consideration, property on an installation recommended for closure or realignment to the local redevelopment authority (LRA), if the authority's reuse plan provides for the property to be used for job creation and any economic benefits are reinvested in the economic redevelopment of the installation and surrounding community.

The provision would provide the secretaries with the authority to modify existing economic development conveyances (EDCs), provided the modification is necessary to achieve rapid economic revitalization and replacement of lost jobs; does not require the return of payments or in kind consideration; is necessary to generate additional employment opportunities; and is subject to the same requirements as those granted under this new authority. The provision would be applicable to conveyances concluded or after April 21, 1999.

The House amendment contained no similar provision.

The House recedes with an amendment that would limit the authority of the secretary concerned to modify conveyances under this authority so that the consideration generated from the modified agreement, combined with the proceeds from the disposal of other assets at the installation, are sufficient to reimburse the reserve account for depreciated value of the Non-Appropriated Fund investment in morale, welfare, and recreation and commissary assets with the conveyed parcel of real property. The amendment would also reduce the period in which reinvestment must be made in improvements from ten to seven years. The amendment would also make certain technical and conforming changes.

The conferees reiterate the conveyance of surplus property under this provision is to support permanent job creation. The secretaries of the military departments are strongly encouraged to continue existing policy that while a property transfer for housing in and of itself would not qualify as an economic development conveyance, its inclusion with other properties that are used for permanent job creation (for example, revenue generation to offset a community's redevelopment cost burden) is acceptable. The secretaries of the military departments are further strongly encouraged to prevent `windfall profits' from property conveyances under this provision, by assuring that proceeds from use of the property are used only for purposes legitimately related to permanent job creation on or related to the closing or realigning installation. Otherwise, the secretaries of the military departments should consider sharing in proceeds that are greater than those required to redevelop the base. Finally, it is the intention of the conferees that this expanded authority will not adversely affect current law that already authorizes no-cost property conveyances to rural communities. The secretaries of the military

departments are strongly encouraged to ensure that conveyances under this authority do not additionally burden rural recipients of property.

The conferees urge the Secretary of Defense to establish a policy that the service secretaries use all cash proceeds from any disposal of base closure assets at a particular installation to first fund the reserve account established by section 204 of the Defense Authorization and Base Closure and Realignment Act (Public Law 100-526). The amount of funding should equal the depreciated value of the investment made with commissary store funds or non-appropriated funds in facilities on that installation. The service secretaries should fund the reserve account even if the relevant facilities were disposed of in a way that did not generate cash proceeds.

The conferees emphasize that conveyances under this authority do not supplant the transfer authorities delegated to the Department of Defense by the General Services Administration for public benefit purposes, including ports and aviation facilities. The conferees direct the secretary of the appropriate military department to notify the congressional defense committees in each instance in which an economic development conveyance is granted and include a report on the terms and conditions of the conveyance.