

PUBLIC LAW 114–226—SEPT. 29, 2016

WEST LOS ANGELES LEASING ACT OF 2016

Public Law 114–226
114th Congress

An Act

Sept. 29, 2016
[H.R. 5936]

To authorize the Secretary of Veterans Affairs to enter into certain leases at the Department of Veterans Affairs West Los Angeles Campus in Los Angeles, California, to make certain improvements to the enhanced-use lease authority of the Department, and for other purposes.

West Los Angeles
Leasing Act of
2016.
38 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “West Los Angeles Leasing Act of 2016”.

SEC. 2. AUTHORITY TO ENTER INTO CERTAIN LEASES AT THE DEPARTMENT OF VETERANS AFFAIRS WEST LOS ANGELES CAMPUS.

Real property.

(a) **IN GENERAL.**—The Secretary of Veterans Affairs may carry out leases described in subsection (b) at the Department of Veterans Affairs West Los Angeles Campus in Los Angeles, California (hereinafter in this section referred to as the “Campus”).

(b) **LEASES DESCRIBED.**—Leases described in this subsection are the following:

(1) Any enhanced-use lease of real property under subchapter V of chapter 81 of title 38, United States Code, for purposes of providing supportive housing, as that term is defined in section 8161(3) of such title, that principally benefit veterans and their families.

(2) Any lease of real property for a term not to exceed 50 years to a third party to provide services that principally benefit veterans and their families and that are limited to one or more of the following purposes:

(A) The promotion of health and wellness, including nutrition and spiritual wellness.

(B) Education.

(C) Vocational training, skills building, or other training related to employment.

(D) Peer activities, socialization, or physical recreation.

(E) Assistance with legal issues and Federal benefits.

(F) Volunteerism.

(G) Family support services, including child care.

(H) Transportation.

(I) Services in support of one or more of the purposes specified in subparagraphs (A) through (H).

Regents of the
University of
California.

(3) A lease of real property for a term not to exceed 10 years to The Regents of the University of California, a corporation organized under the laws of the State of California, on

behalf of its University of California, Los Angeles (UCLA) campus (hereinafter in this section referred to as “The Regents”), if—

(A) the lease is consistent with the master plan described in subsection (g);

(B) the provision of services to veterans is the predominant focus of the activities of The Regents at the Campus during the term of the lease;

(C) The Regents expressly agrees to provide, during the term of the lease and to an extent and in a manner that the Secretary considers appropriate, additional services and support (for which The Regents is not compensated by the Secretary or through an existing medical affiliation agreement) that—

(i) principally benefit veterans and their families, including veterans that are severely disabled, women, aging, or homeless; and

(ii) may consist of activities relating to the medical, clinical, therapeutic, dietary, rehabilitative, legal, mental, spiritual, physical, recreational, research, and counseling needs of veterans and their families or any of the purposes specified in any of subparagraphs (A) through (I) of paragraph (2); and

(D) The Regents maintains records documenting the value of the additional services and support that The Regents provides pursuant to subparagraph (C) for the duration of the lease and makes such records available to the Secretary.

Records.

(c) **LIMITATION ON LAND-SHARING AGREEMENTS.**—The Secretary may not carry out any land-sharing agreement pursuant to section 8153 of title 38, United States Code, at the Campus unless such agreement—

(1) provides additional health-care resources to the Campus; and

(2) benefits veterans and their families other than from the generation of revenue for the Department of Veterans Affairs.

(d) **REVENUES FROM LEASES AT THE CAMPUS.**—Any funds received by the Secretary under a lease described in subsection (b) shall be credited to the applicable Department medical facilities account and shall be available, without fiscal year limitation and without further appropriation, exclusively for the renovation and maintenance of the land and facilities at the Campus.

(e) **EASEMENTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law (other than Federal laws relating to environmental and historic preservation), pursuant to section 8124 of title 38, United States Code, the Secretary may grant easements or rights-of-way on, above, or under lands at the Campus to—

(A) any local or regional public transportation authority to access, construct, use, operate, maintain, repair, or reconstruct public mass transit facilities, including, fixed guideway facilities and transportation centers; and

(B) the State of California, County of Los Angeles, City of Los Angeles, or any agency or political subdivision

thereof, or any public utility company (including any company providing electricity, gas, water, sewage, or telecommunication services to the public) for the purpose of providing such public utilities.

(2) IMPROVEMENTS.—Any improvements proposed pursuant to an easement or right-of-way authorized under paragraph (1) shall be subject to such terms and conditions as the Secretary considers appropriate.

(3) TERMINATION.—Any easement or right-of-way authorized under paragraph (1) shall be terminated upon the abandonment or nonuse of the easement or right-of-way and all right, title, and interest in the land covered by the easement or right-of-way shall revert to the United States.

(f) PROHIBITION ON SALE OF PROPERTY.—Notwithstanding section 8164 of title 38, United States Code, the Secretary may not sell or otherwise convey to a third party fee simple title to any real property or improvements to real property made at the Campus.

(g) CONSISTENCY WITH MASTER PLAN.—The Secretary shall ensure that each lease carried out under this section is consistent with the draft master plan approved by the Secretary on January 28, 2016, or successor master plans.

(h) COMPLIANCE WITH CERTAIN LAWS.—

(1) LAWS RELATING TO LEASES AND LAND USE.—If the Inspector General of the Department of Veterans Affairs determines, as part of an audit report or evaluation conducted by the Inspector General, that the Department is not in compliance with all Federal laws relating to leases and land use at the Campus, or that significant mismanagement has occurred with respect to leases or land use at the Campus, the Secretary may not enter into any lease or land-sharing agreement at the Campus, or renew any such lease or land-sharing agreement that is not in compliance with such laws, until the Secretary certifies to the Committees on Veterans' Affairs of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and each Member of the Senate and the House of Representatives who represents the area in which the Campus is located that all recommendations included in the audit report or evaluation have been implemented.

(2) COMPLIANCE OF PARTICULAR LEASES.—Except as otherwise expressly provided by this section, no lease may be entered into or renewed under this section unless the lease complies with chapter 33 of title 41, United States Code, and all Federal laws relating to environmental and historic preservation.

(i) VETERANS AND COMMUNITY OVERSIGHT AND ENGAGEMENT BOARD.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a Veterans and Community Oversight and Engagement Board (in this subsection referred to as the “Board”) for the Campus to coordinate locally with the Department of Veterans Affairs to—

(A) identify the goals of the community and veteran partnership;

Determination.
Certification.
Recommendations.

Establishment.

Deadline.
Recommendations.

(B) provide advice and recommendations to the Secretary to improve services and outcomes for veterans, members of the Armed Forces, and the families of such veterans and members; and

(C) provide advice and recommendations on the implementation of the draft master plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any successor master plans.

(2) MEMBERS.—The Board shall be comprised of a number of members that the Secretary determines appropriate, of which not less than 50 percent shall be veterans. The nonveteran members shall be family members of veterans, veteran advocates, service providers, real estate professionals familiar with housing development projects, or stakeholders. Determination.

(3) COMMUNITY INPUT.—In carrying out paragraph (1), the Board shall—

(A) provide the community opportunities to collaborate and communicate with the Board, including by conducting public forums on the Campus; and

(B) focus on local issues regarding the Department that are identified by the community, including with respect to health care, implementation of the draft master plan and any subsequent plans, benefits, and memorial services at the Campus.

(j) NOTIFICATION AND REPORTS.—

(1) CONGRESSIONAL NOTIFICATION.—With respect to each lease or land-sharing agreement intended to be entered into or renewed at the Campus, the Secretary shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and each Member of the Senate and the House of Representatives who represents the area in which the Campus is located of the intent of the Secretary to enter into or renew the lease or land-sharing agreement not later than 45 days before entering into or renewing the lease or land-sharing agreement.

(2) ANNUAL REPORT.—Not later than one year after the date of the enactment of this Act, and not less frequently than annually thereafter, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, the Committees on Appropriations of the Senate and House of Representatives, and each Member of the Senate and the House of Representatives who represents the area in which the Campus is located an annual report evaluating all leases and land-sharing agreements carried out at the Campus, including—

(A) an evaluation of the management of the revenue generated by the leases; and Evaluation.

(B) the records described in subsection (b)(3)(D). Records.

(3) INSPECTOR GENERAL REPORT.—

(A) IN GENERAL.—Not later than each of two years and five years after the date of the enactment of this Act, and as determined necessary by the Inspector General of the Department of Veterans Affairs thereafter, the Inspector General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives and the Committees on Appropriations of the Senate and Determination.
Assessment.

House of Representatives, and each Member of the Senate and the House of Representatives who represents the area in which the Campus is located a report on all leases carried out at the Campus and the management by the Department of the use of land at the Campus, including an assessment of the efforts of the Department to implement the master plan described in subsection (g) with respect to the Campus.

(B) CONSIDERATION OF ANNUAL REPORT.—In preparing each report required by subparagraph (A), the Inspector General shall take into account the most recent report submitted to Congress by the Secretary under paragraph (2).

(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of the Secretary to enter into other agreements regarding the Campus that are authorized by law and not inconsistent with this section.

(l) PRINCIPALLY BENEFIT VETERANS AND THEIR FAMILIES DEFINED.—In this section the term “principally benefit veterans and their families”, with respect to services provided by a person or entity under a lease of property or land-sharing agreement—

(1) means services—

(A) provided exclusively to veterans and their families;

or

(B) that are designed for the particular needs of veterans and their families, as opposed to the general public, and any benefit of those services to the general public is distinct from the intended benefit to veterans and their families; and

(2) excludes services in which the only benefit to veterans and their families is the generation of revenue for the Department of Veterans Affairs.

(m) CONFORMING AMENDMENTS.—

(1) PROHIBITION ON DISPOSAL OF PROPERTY.—Section 224(a) of the Military Construction and Veterans Affairs and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2272) is amended by striking “The Secretary of Veterans Affairs” and inserting “Except as authorized under the Los Angeles Homeless Veterans Leasing Act of 2016, the Secretary of Veterans Affairs”.

(2) ENHANCED-USE LEASES.—Section 8162(c) of title 38, United States Code, is amended by inserting “, other than an enhanced-use lease under the Los Angeles Homeless Veterans Leasing Act of 2016,” before “shall be considered”.

SEC. 3. IMPROVEMENTS TO ENHANCED-USE LEASE AUTHORITY OF DEPARTMENT OF VETERANS AFFAIRS.

(a) PROHIBITION ON WAIVER OF OBLIGATION OF LESSEE.—Paragraph (3) of section 8162(b) of title 38, United States Code, is amended by adding at the following new subparagraph:

“(D) The Secretary may not waive or postpone the obligation of a lessee to pay any consideration under an enhanced-use lease, including monthly rent.”

(b) CLARIFICATION OF LIABILITY OF FEDERAL GOVERNMENT TO THIRD PARTIES.—Section 8162 of such title is amended by adding at the end the following new subsection:

“(d)(1) Nothing in this subchapter authorizes the Secretary to enter into an enhanced-use lease that provides for, is contingent upon, or otherwise authorizes the Federal Government to guarantee a loan made by a third party to a lessee for purposes of the enhanced-use lease.

“(2) Nothing in this subchapter shall be construed to abrogate or constitute a waiver of the sovereign immunity of the United States with respect to any loan, financing, or other financial agreement entered into by the lessee and a third party relating to an enhanced-use lease.”.

(c) TRANSPARENCY.—

(1) NOTICE.—Section 8163(c)(1) of such title is amended— 38 USC 8163.

(A) by inserting “, the Committees on Appropriations of the House of Representatives and the Senate, and the Committees on the Budget of the House of Representatives and the Senate” after “congressional veterans’ affairs committees”;

(B) by striking “and shall publish” and inserting “, shall publish”;

(C) by inserting before the period at the end the following: “, and shall submit to the congressional veterans’ affairs committees a copy of the proposed lease”; and

(D) by adding at the end the following new sentence: “With respect to a major enhanced-use lease, upon the request of the congressional veterans’ affairs committees, not later than 30 days after the date of such notice, the Secretary shall testify before the committees on the major enhanced-use lease, including with respect to the status of the lease, the cost, and the plans to carry out the activities under the lease. The Secretary may not delegate such testifying below the level of the head of the Office of Asset Enterprise Management of the Department or any successor to such office.”.

Deadline.
Testimony.

(2) ANNUAL REPORTS.—Section 8168 of such title is amended—

(A) by striking “to Congress” each place it appears and inserting “to the congressional veterans’ affairs committees, the Committees on Appropriations of the House of Representatives and the Senate, and the Committees on the Budget of the House of Representatives and the Senate”;

(B) in subsection (a)—

(i) by striking “Not later” and inserting “(1) Not later”;

(ii) by striking “a report” and all that follows through the period at the end and inserting “a report on enhanced-use leases.”; and

(iii) by adding at the end the following new paragraph:

“(2) Each report under paragraph (1) shall include the following:

“(A) Identification of the actions taken by the Secretary to implement and administer enhanced-use leases.

“(B) For the most recent fiscal year covered by the report, the amounts deposited into the Medical Care Collection Fund account that were derived from enhanced-use leases.

“(C) Identification of the actions taken by the Secretary using the amounts described in subparagraph (B).

“(D) Documents of the Department supporting the contents of the report described in subparagraphs (A) through (C).”; and

(C) in subsection (b)—

(i) by striking “Each year” and inserting “(1) Each year”;

(ii) by striking “this subchapter,” and all that follows through the period at the end and inserting “this subchapter.”; and

(iii) by adding at the end the following new paragraph:

“(2) Each report under paragraph (1) shall include the following with respect to each enhanced-use lease covered by the report:

“(A) An overview of how the Secretary is using consideration received by the Secretary under the lease to support veterans.

“(B) The amount of consideration received by the Secretary under the lease.

“(C) The amount of any revenues collected by the Secretary relating to the lease not covered by subparagraph (B), including a description of any in-kind assistance or services provided by the lessee to the Secretary or to veterans under an agreement entered into by the Secretary pursuant to any provision of law.

“(D) The costs to the Secretary of carrying out the lease.

“(E) Documents of the Department supporting the contents of the report described in subparagraphs (A) through (D).”.

(d) ADDITIONAL DEFINITIONS.—Section 8161 of such title is amended by adding at the end the following new paragraphs:

“(4) The term ‘lessee’ means the party with whom the Secretary has entered into an enhanced-use lease under this subchapter.

“(5) The term ‘major enhanced-use lease’ means an enhanced-use lease that includes consideration consisting of an average annual rent of more than \$10,000,000.”.

(e) COMPTROLLER GENERAL AUDIT.—

(1) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report containing an audit of the enhanced-use lease program of the Department of Veterans Affairs under subchapter V of chapter 81 of title 38, United States Code.

(2) MATTERS INCLUDED.—The report under paragraph (1) shall include the following:

(A) The financial impact of the enhanced-use lease authority on the Department of Veterans Affairs and whether the revenue realized from such authority and other financial benefits would have been realized without such authority.

(B) The use by the Secretary of such authority and whether the arrangements made under such authority would have been made without such authority.

(C) An identification of the controls that are in place to ensure accountability and transparency and to protect the Federal Government.

(D) An overall assessment of the activities of the Secretary under such authority to ensure procurement cost

avoidance, negotiated cost avoidance, in-contract cost avoidance, and rate reductions.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—
In this subsection, the term “appropriate congressional committees” means—

(A) the Committees on Veterans’ Affairs of the House of Representatives and the Senate;

(B) the Committees on Appropriations of the House of Representatives and the Senate; and

(C) the Committees on the Budget of the House of Representatives and the Senate.

Approved September 29, 2016.

LEGISLATIVE HISTORY—H.R. 5936:

CONGRESSIONAL RECORD, Vol. 162 (2016):

Sept. 12, considered and passed House.

Sept. 19, considered and passed Senate.

