

TITLE 16 - CONSERVATION

CHAPTER 1 - NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

SUBCHAPTER XXXVII - ACADIA NATIONAL PARK

Sec. 341. Establishment; description of area

The tracts of land, easements, and other real estate known before February 26, 1919, as the Sieur de Monts National Monument, situated on Mount Desert Island, in the county of Hancock and State of Maine, are declared to be a national park and dedicated as a public park for the benefit and enjoyment of the people under the name of the Acadia National Park, under which name the aforesaid national park shall be entitled to receive and to use all moneys heretofore or hereafter appropriated for Sieur de Monts National Monument.

(Feb. 26, 1919, Ch. 45, Sec. 1, 40 Stat. 1178; Jan. 19, 1929, Ch. 77, Sec. 2, 45 Stat. 1083.)

Codification

The words “known before February 26, 1919,” were substituted in text for “heretofore known.”

Recitation in this section as originally enacted of the fact that Sieur de Monts National Monument was established under act June 8, 1906, by Presidential proclamation of July 8, 1916, was omitted as historically obsolete.

Change of Name

“Lafayette National Park” changed to “Acadia National Park” by act Jan. 19, 1929.

Permanent Boundary for Acadia National Park

Pub. L. 99-420, Title I, Sept. 25, 1986, 100 Stat. 955, provided that:

“SEC. 101. BOUNDARIES OF ACADIA NATIONAL PARK.

“In order to protect and conserve the land and water resources of Acadia National Park in the State of Maine (hereinafter in this title referred to as ‘the Park’), and to facilitate the administration of the Park, the boundary depicted on the map entitled ‘Acadia National Park Boundary Map’, numbered 123-80011, and dated May 1986 (hereinafter in this title referred to as ‘the map’) is hereby established as the permanent boundary for the Park. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and it shall be made available to the Registry of Deeds for Hancock and Knox Counties, Maine.

“SEC. 102. LANDS WITHIN BOUNDARIES.

“a) The Secretary of the Interior (hereinafter in this title referred to as ‘the Secretary’) is authorized to acquire lands and interests therein within the boundaries of the Park by donation, exchange (in accordance with this section), or purchase with donated or appropriated funds, except that--

“(1) any lands or interests therein owned by the State of Maine or any political subdivision thereof may be acquired only by donation or exchange; and

“(2) privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary determines that the property is being developed or proposed to be developed in a manner which is detrimental to the scenic, historical, cultural, and other values for which the Park was established.

“(b)(1) Not later than 6 months after the enactment of this Act [Sept. 25, 1986], the Secretary shall publish specific guidelines under which determinations shall be made under subsection (a)(2). The Secretary shall provide adequate opportunity for public comment on such guidelines. The guidelines shall provide for notice to the Secretary prior to commencement of any proposed development within the boundaries of the Park. The Secretary shall provide written notice to the owner of the property of any determination proposed to be made under subsection (a)(2) and shall provide the owner a reasonable opportunity to comment on such proposal.

“(2) For purposes of this section, except as provided in paragraph (3), development or proposed development of private property within the boundaries of the Park that is significantly different from, or a significant expansion of, development existing as of November 1, 1985, shall be considered by the Secretary as detrimental to the values for which the Park was established.

“(3) Reconstruction or expansion of a private or commercial building shall not be treated as detrimental to the Park or as an incompatible development within the meaning of this section if such reconstruction or expansion is limited to one or more of the following:

“(A) Reconstruction of an existing building.

“(B) Construction of attached or accessory structural additions, which do not exceed 25 per centum of the square footage of the principal structure.

“(C) Construction of reasonable support development such as roads, parking facilities, water and sewage systems, and dock facilities.

“(c)(1) The owners of any private property within the Park may, on the date of its acquisition by the Secretary and as a condition of such acquisition, retain for himself and his successors or assigns a right to use and occupancy for a definite term of not more than 25 years, or ending at the death of the owner, or his spouse, whichever is later. The owners shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value, of the right retained by the owner.

“(2) Any such right retained pursuant to this subsection shall be subject to such terms and conditions as the Secretary may prescribe and may be terminated by the Secretary upon his determination and after reasonable notice to the owner thereof that such property is being used for any purpose which is incompatible with the administration of the Park or with the preservation of the resources therein. Such right shall terminate by operation of law upon notification to the owner by the Secretary and tendering to the owner the amount equal to the fair market value of that portion which remains unexpired.

“(d)(1) In exercising his authority to acquire lands by exchange pursuant to this title, the Secretary may accept title to non-Federal property located within the the boundary of the Park and may convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which lies outside said boundary and depicted on the map. Properties so exchanged shall be approximately equal in value, as determined by the Secretary, except that the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the value of the properties exchanged.

“(2) Federally owned property under jurisdiction of the Secretary referred to in paragraph (1) of this subsection which is not exchanged within 10 years after enactment of this Act [Sept. 25, 1986], shall be conveyed to the towns in which the property is located without emcumbrance [encumbrance] and without monetary consideration, except that no town shall be eligible to receive such lands unless, within 10

years after enactment of this Act, lands within the Park boundary and owned by the town have been acquired by the Secretary.

“(e) Notwithstanding any other provision of this section, lands depicted on the map referenced in section 101 and identified as 10DBH and 11DBH known as the ‘Bar Harbor Sewage Treatment Plant’; 14DBH known as the ‘New Park Street Ballfield’; and 15DBH known as the ‘Former Park Headquarters’; shall be conveyed by the Secretary, without monetary consideration, to the town of Bar Harbor, Maine, within 180 days following the enactment of this Act [Sept. 25, 1986]. The real property conveyed pursuant to this subsection shall be used and retained by the town for municipal and public purposes. Title to the properties conveyed pursuant to this subsection shall revert to the United States if such property or any portion thereof is conveyed by the town to another party or used for purposes other than those specified in this subsection.

“(f) Notwithstanding any other provision of this section, land depicted on the map identified as 4DBH, located in the village of Town Hill, Maine, shall be conveyed by the Secretary without monetary consideration, to the town of Bar Harbor, Maine, as soon as practicable following the enactment of this Act [Sept. 25, 1986], subject to such terms and conditions, including appropriate reversionary provisions, as will in the judgment of the Secretary provide for the development and use of such property by any town which so desires as a solid waste transfer station in accordance with a plan that is satisfactory to the town and the Secretary. The Secretary shall (subject to the availability of prior appropriations) contribute toward the cost of constructing such transfer station the lesser of—

“(1) \$350,000, or

“(2) 50 per centum of the cost of such construction.

“(g) Notwithstanding any other provision of this section, the Secretary is authorized to acquire by donation or exchange lands or interests therein in the area identified on the map as ‘Schooner Head’, which is outside the boundary of the park. The Secretary is further authorized to acquire conservation easements on such lands by purchase with donated or appropriated funds if he determines after written notice to the owner and after providing a reasonable opportunity to comment on such notice, that the property is being developed or proposed to be developed in a manner which is significantly different from or a significant expansion of development existing as of November 1, 1985, as defined in subsection (b) of this section.

“(h)(1) The Secretary is authorized to acquire conservation easements by purchase from a willing seller or by donation on parcels of land adjacent to the Park on Schoodic Peninsula, the islands of Hancock County, and the islands of Knox County east and south of the Penobscot Ship Channel, except such islands as lie within the town of Isle au Haut, Knox County. Parcels subject to conservation easements acquired or accepted by the Secretary under this subsection must possess one or more of the following characteristics:

“(A) important scenic, ecological, historic, archeological, or cultural resources;

“(B) shorefront property; or

“(C) largely undeveloped entire islands.

“(2) Conservation easements acquired pursuant to this subsection shall—

“(A) protect the respective scenic, ecological, historic, archeological, or cultural resources existing on the parcels;

“(B) preserve, through setback requirements or other appropriate restrictions, the open, natural, or traditional appearance of the shorefront when viewed from the water or from other public viewpoints; or

“(C) limit year-round and seasonal residential and commercial development to activities consistent with the preservation of the islands’ natural qualities and to traditional resource-based land use including, but not limited to, fishing, farming, silviculture, and grazing.

“(3) In determining whether to accept or acquire conservation easements pursuant to this subsection, the Secretary shall consider the following factors:

“(A) the resource protection benefits that would be provided by the conservation easement;

“(B) the public benefit that would be provided by the conservation easement;

“(C) the significance of the easement in relation to the land planning objectives of local government and regional and State agencies;

“(D) the economic impact of the conservation easement on local livelihoods, activities, and government revenues; and

“(E) the proximity of the parcel to the boundary of the Park and to other parcels on which the Secretary maintains conservation easements.

“(4) For purposes of this subsection, the term ‘conservation easement’ means a less-than-fee interest in land or a conservation restriction as defined in section 476 through 479-B inclusive, as amended, of title 33 of the Maine Revised Statutes of 1964, as in effect on the date of the enactment of this Act [Sept. 25, 1986].

“(5) No easement may be acquired by the Secretary under this subsection without first consulting with, and providing written notification to, the town in which the land is located and the Acadia National Park Advisory Commission established by section 103 of this title. In providing such notification, the Secretary shall indicate the manner and degree to which the easement meets the criteria provided in this subsection.

“(i) Nothing in this section shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances.

“(j)(1) Notwithstanding any other provision of this section, the Secretary shall accept an offer of the following from the Jackson Laboratory (a not-for-profit corporation organized under the laws of Maine):

“(A) Lands depicted on the map as 55 A ABH which are held in fee by the Jackson Laboratory.

“(B) A conservation easement on lands depicted on the map identified as 55 ABH (the developed property known as ‘Highseas’). The easement shall prohibit subdivision of such land or any further significant development on such lands, except as permitted by the guidelines published under section 102(b)(1).

“(2) Upon receipt of the lands and easement described in paragraph (1), the Secretary shall transfer to the Jackson Laboratory the lands depicted on the map as 8 DBH and 9 DBH. Any disparity in the fair market value of the lands and easement referred to in paragraph (1) and the lands described in the preceding sentence shall be equalized as provided in section 102(d)(1).

“(k) For purposes of subsection (a)(2), the construction of one single family residence on Burnt Porcupine Island by the owner of the Island shall not be treated as detrimental to the scenic, historic, cultural, or other values for which the park was established if, before such construction commences, the Secretary has reviewed and approved plans for the size, location and architectural design of the structure.

“SEC. 103. ADVISORY COMMISSION.

“(a) There is hereby established an Acadia National Park Advisory Commission (hereinafter referred to as ‘the Commission’). The Commission shall be composed of 16 members appointed by the Secretary as follows:

“(1) 3 members at large.

“(2) 3 members appointed from among individuals recommended by the Governor of Maine.

“(3) 4 members, appointed from among individuals recommended by each of the four towns on the island of Mount Desert.

“(4) 3 members appointed from among individuals recommended by each of the three Hancock County mainland communities of Gouldsboro, Winter Harbor, and Trenton.

“(5) 3 members, appointed from among individuals recommended by each of the three island towns of Cranberry Isles, Swans Island, and Frenchboro.

“(b) The terms of the Commission members shall be 3 years except that, for initial appointments under each paragraph, one member shall serve for a term of one year, and one member shall serve for a term of 2 years.

“(c) The Commission shall elect its own chairman and adopt its own bylaws. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

“(d) Members of the Commission shall serve without compensation as such, except that the Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this title.

“(e) The Secretary shall consult with the Commission on matters relating to the management and development of the Park, including but not limited to each of the following:

“(1) The acquisition of lands and interests in lands (including conservation easements on islands).

“(2) Termination of rights of use and occupancy.

“(f) The Commission established under this section shall terminate 20 years after the enactment of this Act [Sept. 25, 1986].

“SEC. 104. BEAR ISLAND.

“(a) Notwithstanding any other provision of law, Federal property located on Bear Island in the town of Cranberry Isle shall, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the provisions of the title. Such Federal property shall not be developed by the Secretary in a manner which would provide for or encourage intensive visitor use.

“(b) The Secretary is authorized to make improvements to the Federal property on Bear Island as he deems appropriate for the protection of adjacent private property.

“SEC. 105. TOWN OF ISLE AU HAUT.

“The provisions of this title shall not apply to those portions of the Park lying within the Town of Isle au Haut, Maine, which lands shall continue to be governed by the provisions of Public Law 97-335 [set out as a note below].

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

“(a) Effective October 1, 1986, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, but not to exceed \$9,100,000 for acquisition of lands and interests therein.

“(b) For the purposes of paragraph 7(a)(3) of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-9), the statutory ceiling provided in subsection (a) shall be deemed to have been enacted prior to the convening of the Ninety-fifth Congress [Jan. 4, 1977].

“SEC. 107. PAYMENTS TO LOCAL GOVERNMENTS.

“(a) Notwithstanding the limitation in subsection 3(d) of the Act of October 20, 1976 (90 Stat. 2662) payments in the manner provided in section 3 of that Act [see 31 U.S.C. 6904(b)] shall be made to the appropriate units of local government having jurisdiction over lands with the boundary of the Park. Such payments shall be made only for a period of 12 years.

“(b) Payments received by the units of local government pursuant to this section shall be used only for fire protection, police protection, solid waste management, and road maintenance and improvement.

“(c) Payments pursuant to this section may be made only from funds appropriated therefor. Such payments shall be in addition to and not in place of any other funds or form of Federal assistance to which the units of local government are entitled.”

Acadia National Park Lands Lying Within Boundaries of Town of Isle au Haut, Maine

Pub. L. 97-335, Oct. 15, 1982, 96 Stat. 1627, as amended by Pub. L. 104-333, Div. I, Title VIII, Sec. 814(d)(1)(C), Nov. 12, 1996, 110 Stat. 4196, provided:

“That the Congress finds that—

“(1) there are significant scenic, educational, natural, and cultural resources in the town of Isle au Haut, Maine;

“(2) due to the isolated location and traditional resource-based economy of the town’s island community, these resources are fragile and deserving of conservation and protection through both public and private efforts; and

“(3) both residents of the town and visitors to the Acadia National Park will benefit from the establishment of a permanent boundary for the park and the management of parklands on a limited entry, low intensity basis.

“SEC. 2. Notwithstanding any other provision of law, the permanent boundary of Acadia National Park lying within the town of Isle au Haut, Maine, is hereby established to include only those lands and interests therein as are depicted on the map entitled ‘Boundary Map, Acadia National Park, Town of Isle au Haut, Maine’, numbered 123-80003 and dated October 1981, which map is on file and available for public inspection in the offices of the Department of the Interior and at the Registry of Deeds for Hancock and Knox Counties, Maine.

“SEC. 3. (a) Within the boundary established by section 2, and as indicated on the map referenced therein, the Secretary of the Interior (hereinafter referred to as ‘the Secretary’) is authorized to acquire lands and interests therein by donation or exchange. The Secretary is authorized and directed to acquire by donation, purchase with donated or appropriated funds, or exchange the tract known as the Hamilton lot in Duck Harbor. No later than one hundred and eighty days from enactment hereof [Oct. 15, 1982], the Secretary shall convey to the town of Isle au Haut all right, title and interest of the United States in and to those lands under the jurisdiction of the Secretary which lie outside the boundary established by section 2 and within the town of Isle au Haut, subject only to such covenants running with the land as the Secretary and the town agree are necessary to preserve the general character of such lands, which shall include covenants to maintain forever in their natural condition (excepting the cutting of fire trails and the extinguishment of fires) lands above three hundred feet above the mean high water level: Provided, however, That such covenants with respect to lands above three hundred feet and below four hundred feet shall permit the gathering and removal of dead and fallen timber.

“(b) Notwithstanding any other provisions of this Act [this note], the Secretary is also authorized to accept by donation, as a coholder for enforcement purposes only, a limited enforcement interest in conservation easements on lands outside the boundary established by section 2 hereof and within the town of Isle au Haut which may from time to time be donated to the Isle au Haut Land Conservation Trust, a trust established under the laws of the State of Maine. The Superintendent of Acadia National Park is hereby authorized to serve as an ex officio trustee of such trust.

“SEC. 4. (a) The management and use of parklands on Isle au Haut shall not interfere with the maintenance of a viable local community with a traditional resource-based economy outside the boundary of the park. To the maximum extent practicable, no development or plan for the convenience of park visitors shall be undertaken which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this portion of the park in as nearly its present state and condition as possible. In recognition of the special fragility and sensitivity of the park’s resources, visitation shall be strictly limited to assure negligible adverse impact on such resources, to conserve the character of the town and to protect the quality of the visitor experience.

“(b), (c) Repealed. Pub. L. 104-333, Div. I, Title VIII, Sec. 814(d)(1)(C), Nov. 12, 1996, 110 Stat. 4196.]

“(d) Carrying capacities established pursuant to this section shall be reviewed, and if necessary revised, every five years. Any revision in such carrying capacity shall be made in accordance with the procedures set forth in subsections (b) and (c) of this section.

“(e) Until such time as a carrying capacity limitation is established and implemented pursuant to subsections (b) and (c) of this section, the Secretary shall take such temporary measures as are necessary to assure that visitation does not exceed the average annual visitation for the period 1979 to 1981.

“SEC. 5. There are hereby authorized to be appropriated after October 1, 1982, such sums as may be necessary to carry out the provisions of this Act [this note].”