

**Editorial Notes**

## REFERENCES IN TEXT

Chapter 137 of this title, referred to in subsection (e), was repealed by Pub. L. 116-283, div. A, title XVIII, §1881(a), Jan. 1, 2021, 134 Stat. 4293, effective Jan. 1, 2022, in conjunction with the transfer and reorganization of acquisition provisions in this title by Pub. L. 116-283, div. A, title XVIII, Jan. 1, 2022, 134 Stat. 4149. For definition of “chapter 137 legacy provisions”, see section 3016 of this title.

## PRIOR PROVISIONS

Similar provisions were contained in Pub. L. 98-115, title VIII, §802, Oct. 11, 1983, 97 Stat. 783, as amended, which was set out as a note under section 2821 of this title, prior to repeal by Pub. L. 102-190, §2809(b).

## AMENDMENTS

2013—Subsecs. (a), (c)(4)(B), (11). Pub. L. 112-239 inserted “when it is not operating as a service in the Navy” after “Coast Guard”.

2011—Subsec. (b). Pub. L. 112-81, §1061(25)(A), struck out par. (1) designation before “The Secretary of a military department” and struck out par. (2) which read as follows: “The budget material submitted to Congress by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, in connection with the budget submitted pursuant to section 1105 of title 31 for each fiscal year shall include materials that identify the military housing rental guaranty projects for which agreements are proposed to be entered into under subsection (a) in that fiscal year.”

Subsec. (f). Pub. L. 112-81, §1061(25)(B), (C), redesignated subsec. (g) as (f) and struck out former subsec. (f). Prior to amendment, text of subsec. (f) read as follows: “An agreement may not be entered into under subsection (a) until—

“(1) the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard, submits to the appropriate committees of Congress, in writing, an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed agreement is cost effective when compared with alternative means of furnishing the same housing facilities; and

“(2) a period of 21 days has expired following the date on which the economic analysis is received by those committees or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title.”

Subsec. (g). Pub. L. 112-81, §1061(25)(C), redesignated subsec. (g) as (f).

Pub. L. 111-350 substituted “chapter 71 of title 41” for “the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.)”.

2003—Subsec. (f)(2). Pub. L. 108-136 substituted “21 days” for “21 calendar days” and inserted before period at end “or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title”.

2002—Subsecs. (a), (b), (c)(4)(B), (11), (e), (f)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” wherever appearing.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

## EFFECTIVE DATE

Pub. L. 102-190, div. B, title XXVII, §2809(c), Dec. 5, 1991, 105 Stat. 1543, provided that: “Section 2836 of title

10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into under that section on or after the date of the enactment of this Act [Dec. 5, 1991]. The amendment made by subsection (b) [repealing provisions set out as a note under section 2821 of this title] shall not affect the validity of any contract entered into before that date under section 802 of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), as in effect on the day before that date.”

**§ 2837. Housing Requirements and Market Analysis**

(a) IN GENERAL.—Not less frequently than once every five years and in accordance with the requirements of this section, the Secretary concerned shall conduct a Housing Requirements and Market Analysis (in this section referred to as an “HRMA”) for each military installation under the jurisdiction of the Secretary concerned that is located in the United States.

(b) PRIORITIZATION OF INSTALLATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary concerned shall prioritize the conduct of HRMAs for military installations—

(A) for which an HRMA has not been conducted during the five-year period preceding the date of the enactment of this section; or

(B) in locations with housing shortages.

(2) EXISTING 5-YEAR REQUIREMENT.—Paragraph (1) shall not apply to a military department that required an HRMA to be conducted for each military installation not less frequently than once every five years before the date of the enactment of this section.

(c) SUBMITTAL TO CONGRESS.—The Secretary of Defense shall include with the budget materials for the Department of Defense for fiscal year 2024 and each subsequent fiscal year (as submitted to Congress pursuant to section 1105 of title 31, United States Code) a list of the military installations for which the Secretary concerned plans to conduct an HRMA during the fiscal year covered by such budget materials.

(d) HOUSING REQUIREMENTS AND MARKET ANALYSIS.—The term “Housing Requirements and Market Analysis” or “HRMA” means, with respect to a military installation, a structured analytical process under which an assessment is made of both the suitability and availability of the private sector rental housing market using assumed specific standards related to affordability, location, features, physical condition, and the housing requirements of the total military population of such installation.

(Added Pub. L. 117-263, div. B, title XXVIII, §2821(a), Dec. 23, 2022, 136 Stat. 2999.)

**Editorial Notes**

## PRIOR PROVISIONS

A prior section 2837, added Pub. L. 103-337, div. B, title XXVIII, §2803(a), Oct. 5, 1994, 108 Stat. 3051; amended Pub. L. 104-106, div. B, title XXVIII, §2802, Feb. 10, 1996, 110 Stat. 551; Pub. L. 106-65, div. A, title X, §1066(a)(28), Oct. 5, 1999, 113 Stat. 772; Pub. L. 108-136, div. A, title X, §1031(a)(44), Nov. 24, 2003, 117 Stat. 1602, authorized the Secretary of a military department to enter into limited partnerships with private developers of housing through Sept. 30, 2000, further authorized

such Secretary to enter into collateral incentive agreements with those private developers, and established the Defense Housing Investment Account, prior to repeal by Pub. L. 113-66, div. B, title XXVIII, §2802(a)(1), Dec. 26, 2013, 127 Stat. 1006. For effects of repeal on existing contracts and on the Defense Housing Investment Account, see section 2802(b) and (c) of Pub. L. 113-66, set out as notes below.

#### Statutory Notes and Related Subsidiaries

##### HOUSING REQUIREMENTS AND MARKET ANALYSIS: TIME FRAME AND SUBMITTAL OF INFORMATION

Pub. L. 117-263, div. B, title XXVIII, §2821(b), (c), Dec. 23, 2022, 136 Stat. 2999, provided that:

“(b) TIME FRAME.—

“(1) IN GENERAL.—During each of fiscal years 2023 through 2027, the Secretary concerned shall conduct an HRMA for 20 percent of the military installations under the jurisdiction of the Secretary concerned located in the United States.

“(2) SUBMITTAL OF INFORMATION TO CONGRESS.—Not later than January 15, 2023, the Secretary concerned shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of military installations for which the Secretary concerned plans to conduct an HRMA during fiscal year 2023.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘HRMA’ means, with respect to a military installation, a structured analytical process under which an assessment is made of both the suitability and availability of the private sector rental housing market using assumed specific standards related to affordability, location, features, physical condition, and the housing requirements of the total military population of such installation.

“(2) The term ‘military installation’ has the meaning given in section 2801 of title 10, United States Code.

“(3) The term ‘Secretary concerned’ has the meaning given that term in section 101(a) of title 10, United States Code.”

##### EFFECT ON EXISTING CONTRACTS

Pub. L. 113-66, div. B, title XXVIII, §2802(b), Dec. 26, 2013, 127 Stat. 1006, provided that: “The repeal of [former] section 2837 of title 10, United States Code, shall not affect the validity or terms of any contract in connection with a limited partnership under subsection (a) or a collateral incentive agreement under subsection (b) of such section entered into before the date of the enactment of this Act [Dec. 26, 2013].”

##### EFFECT ON DEFENSE HOUSING INVESTMENT ACCOUNT

Pub. L. 113-66, div. B, title XXVIII, §2802(c), Dec. 26, 2013, 127 Stat. 1006, provided that: “Any unobligated amounts remaining in the Defense Housing Investment Account on the date of the enactment of this Act [Dec. 26, 2013] shall be transferred to the Department of Defense Family Housing Improvement Fund. Amounts transferred shall be merged with amounts in such fund and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund.”

#### § 2838. Leasing of military family housing to Secretary of Defense

(a) AUTHORITY.—(1) The Secretary of a military department may lease to the Secretary of Defense military family housing in the National Capital Region (as defined in section 2674(f) of this title).

(2) In determining the military housing unit to lease under this section, the Secretary of Defense should first consider any available mili-

tary housing units that are already substantially equipped for executive communications and security.

(b) RENTAL RATE.—A lease under subsection (a) shall provide for the payment by the Secretary of Defense of consideration in an amount equal to 105 percent of the monthly rate of basic allowance for housing prescribed under section 403(b) of title 37 for a member of the uniformed services in the pay grade of O-10 with dependents assigned to duty at the military installation on which the leased housing unit is located. A rate so established shall be considered the fair market value of the lease interest.

(c) TREATMENT OF PROCEEDS.—(1) The Secretary of a military department shall deposit all amounts received pursuant to leases entered into by the Secretary under this section into a special account in the Treasury established for such military department.

(2) The proceeds deposited into the special account of a military department pursuant to paragraph (1) shall be available to the Secretary of that military department, without further appropriation, for the maintenance, protection, alteration, repair, improvement, or restoration of military housing on the military installation at which the housing leased pursuant to subsection (a) is located.

(Added Pub. L. 110-417, div. B, title XXVIII, §2804(a), Oct. 14, 2008, 122 Stat. 4720.)

#### § 2839. Application of certain authorities and standards to historic military housing and associated historic properties of the Department of the Army

(a) APPLICATION OF CERTAIN AUTHORITY TO CAPEHART AND WHERRY ERA ARMY MILITARY FAMILY HOUSING.—The Secretary of the Army, in satisfaction of requirements under division A of subtitle III of title 54 (commonly referred to as the “National Historic Preservation Act”), may apply the authority and standards contained in the document titled “Program Comment for Capehart and Wherry Era Army Family Housing and Associated Structures and Landscape Features (1949-1962)” (published on June 7, 2002) (67 Fed. Reg. 39332) to all military housing (including privatized military housing under subchapter IV of this chapter) constructed during the period beginning on January 1, 1941, and ending on December 31, 1948, located on a military installation under the jurisdiction of the Secretary of the Army.

(b) TEMPORARY APPLICATION OF CERTAIN AUTHORITY TO VIETNAM WAR ERA ARMY MILITARY HOUSING.—During the period beginning on the date of the enactment of the Military Construction Act for Fiscal Year 2025 and ending on December 31, 2045, the Secretary of the Army, in satisfaction of requirements under division A of subtitle III of title 54 (commonly referred to as the “National Historic Preservation Act”), may apply the authority and standards contained in the document titled “Program Comment for Vietnam War Era Historic Housing, Associated Buildings and Structures, and Landscape Features (1963-1975)” (published on May 4, 2023) (88 Fed. Reg. 28573) to all military housing (including privatized military housing under sub-