

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-

chapter IV of this chapter) constructed after 1975 located on a military installation under the jurisdiction of the Secretary of the Army.

(c) **REPORT.**—As part of each report of the Army required under section 3(c) of Executive Order 13287 (54 U.S.C. 306101 note), the Secretary of the Army shall submit to the Advisory Council on Historic Preservation a report on the implementation of this section.

(d) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to preclude or require the amendment of the documents of the Office of the Assistant Secretary of the Army for Installations, Energy and Environment described in subsection (a) and (b) by the Secretary of the Army or the chair of the Advisory Council on Historic Preservation.

(Added Pub. L. 118–159, div. B, title XXVIII, § 2823(a), Dec. 23, 2024, 138 Stat. 2255.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Military Construction Act for Fiscal Year 2025, referred to in subsec. (b), probably means the date of enactment of div. B of Pub. L. 118–159, known as the Military Construction Authorization Act for Fiscal Year 2025, which was approved Dec. 23, 2024.

Executive Order 13287, referred to in subsec. (c), is Ex. Ord. No. 13287, Mar. 3, 2003, 68 F.R. 10635, which is set out as a note under section 306101 of Title 54, National Park Service and Related Programs.

SUBCHAPTER III—ADMINISTRATION OF MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

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2851.	Supervision of military construction projects.
2851a.	Supervision of military housing by Chief Housing Officer.
2852.	Military construction projects: waiver of certain restrictions.
2853.	Authorized cost and scope of work variations.
2854.	Restoration or replacement of damaged or destroyed facilities.
2854a.	Conveyance of damaged or deteriorated military family housing; use of proceeds.
2855.	Law applicable to contracts for architectural and engineering services and construction design.
2856.	Military unaccompanied housing: standards.
2856a.	Covered military unaccompanied housing: waivers of covered privacy and configuration standards.
2856b.	Covered military unaccompanied housing: standards for habitability.
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2858.	Limitation on the use of funds for expediting a construction project.
2859.	Construction requirements related to antiterrorism and force protection or urban-training operations.
2860.	Availability of appropriations.
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2862.	Turn-key selection procedures.
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2865.	Work in Process Curve charts and outlay tables for military construction projects.
2866.	Water conservation at military installations.
2867.	Energy monitoring and utility control system specification for military construction and military family housing activities.

Sec.	
2868.	Utility services: furnishing for certain buildings.
2869.	Exchange of property at military installations.
[2870.	Repealed.]

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–159, div. A, title XVII, § 1701(a)(30), Dec. 23, 2024, 138 Stat. 2204, substituted “Military unaccompanied housing: standards” for “Covered military unaccompanied housing: design standards” in item 2856.

2023—Pub. L. 118–31, div. B, title XXVIII, §§ 2831(a)(2), 2832(a), 2833(b), Dec. 22, 2023, 137 Stat. 753–755, substituted “Covered military unaccompanied housing: design standards” for “Military unaccompanied housing: local comparability of floor areas” in item 2856 and added items 2856a and 2856b. Addition of items 2856a and 2856b was made pursuant to operation of section 102 of this title.

2021—Pub. L. 117–81, div. B, § 2003(b), title XXVIII, § 2812(a), Dec. 27, 2021, 135 Stat. 2162, 2191, renumbered item 2879 in analysis under subchapter IV of this chapter as 2857 and transferred it to appear after item 2856.

Pub. L. 116–283, div. A, title VIII, § 818(b)(1), div. B, title XXVIII, § 2811(k)(1)(A), Jan. 1, 2021, 134 Stat. 3751, 4326, added item 2851a and struck out item 2870 “Use of qualified apprentices by military construction contractors”.

2019—Pub. L. 116–92, div. A, title VIII, § 865(a)(2), Dec. 20, 2019, 133 Stat. 1524, added item 2870.

2018—Pub. L. 115–232, div. B, title XXVIII, § 2806(a)(2), Aug. 13, 2018, 132 Stat. 2264, added item 2865.

2013—Pub. L. 112–239, div. B, title XXVIII, § 2802(b), Jan. 2, 2013, 126 Stat. 2147, added item 2864.

Pub. L. 112–239, div. A, title X, § 1076(a)(22), Jan. 2, 2013, 126 Stat. 1949, made technical amendment to directory language of Pub. L. 112–81, § 2815(c). See 2011 Amendment note below.

2011—Pub. L. 112–81, div. B, title XXVIII, § 2815(c), Dec. 31, 2011, 125 Stat. 1689, as amended by Pub. L. 112–239, div. A, title X, § 1076(a)(22), Jan. 2, 2013, 126 Stat. 1949, substituted “Exchange of property at military installations” for “Conveyance of property at military installations to limit encroachment” in item 2869.

Pub. L. 111–383, div. A, title X, § 1075(d)(23), Jan. 7, 2011, 124 Stat. 4374, made technical amendment to directory language of Pub. L. 111–84, § 2804(d)(2). See 2009 Amendment note below.

2009—Pub. L. 111–84, div. B, title XXVIII, § 2841(a)(2), Oct. 28, 2009, 123 Stat. 2680, added item 2867.

Pub. L. 111–84, div. B, title XXVIII, § 2804(d)(2), Oct. 28, 2009, 123 Stat. 2662, as amended by Pub. L. 111–383, div. A, title X, § 1075(d)(23), Jan. 7, 2011, 124 Stat. 4374, substituted “Conveyance of property at military installations to limit encroachment” for “Conveyance of property at military installations to support military construction or limit encroachment” in item 2869.

2006—Pub. L. 109–364, div. B, title XXVIII, §§ 2807(a)(2), 2808(b)(2), 2809(b), 2810(b), 2811(f)(2), 2851(c)(4), Oct. 17, 2006, 120 Stat. 2468–2471, 2473, 2495, added item 2861, inserted “or urban-training operations” after “force protection” in item 2859, substituted “Military unaccompanied housing: local comparability of floor areas” for “Limitations on barracks space by pay grade” in item 2856 and “to support military construction or limit encroachment” for “closed or realigned to support military construction” in item 2869, and struck out items 2857 “Use of renewable forms of energy in new facilities”, 2864 “Military construction contracts on Guam”, 2865 “Energy savings at military installations”, and 2867 “Sale of electricity from alternate energy and co-generation production facilities”.

Pub. L. 109–163, div. B, title XXVIII, § 2804(c)(2), Jan. 6, 2006, 119 Stat. 3507, substituted “Authorized cost and scope of work variations” for “Authorized cost variations” in item 2853.