

promptly submits written notification of the facts relating to the proposed increase in cost to the appropriate committees of Congress.”

1989—Pub. L. 101–189 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) to (f).

1987—Subsec. (a)(1). Pub. L. 100–180, §2312, substituted “Except as provided in paragraph (2), the total cost authorized for military construction projects at an installation (including each project the cost of which is included in such total authorized cost and is less than the minor project ceiling) may be increased by not more than 25 percent of the total amount appropriated for such projects” for “Except as provided in paragraph (2), the cost authorized for a military construction project (other than a project for which the approved amount is less than the minor project ceiling (as defined in subsection (f))) may be increased by not more than 25 percent of the amount appropriated for the project”.

Pub. L. 100–26, §7(f)(2)(A), substituted “the minor project ceiling (as defined in subsection (f))” for “the amount specified by law as the maximum amount for a minor military construction project”.

Pub. L. 100–26, §7(f)(2)(B), substituted “the minor project ceiling” for “the amount specified by law as the maximum amount for a minor military construction project”.

Subsec. (a)(2). Pub. L. 100–26, §7(f)(2)(B), substituted “the minor project ceiling” for “the amount specified by law as the maximum amount for a minor military construction project” in two places.

Subsec. (b). Pub. L. 100–26, §7(f)(2)(B), (C), substituted “the minor project ceiling” for “the amount specified by law as the maximum amount for a minor military construction project” and “the amount of such ceiling” for “such maximum amount” in two places.

Subsec. (c). Pub. L. 100–180, §2313, substituted “construction, improvement,” for “construction”.

Subsec. (e). Pub. L. 100–26, §7(f)(2)(B), substituted “the minor project ceiling” for “the amount specified by law as the maximum amount for a minor military construction project”.

Subsec. (f). Pub. L. 100–26, §7(f)(2)(D), added subsec. (f).

1984—Subsec. (e). Pub. L. 98–407 inserted “is more than the amount specified by law as the maximum amount for a minor military construction project and”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

#### § 2854. Restoration or replacement of damaged or destroyed facilities

(a) Subject to subsection (b), the Secretary concerned may repair, restore, or replace a facility under his jurisdiction, including a family housing facility, that has been damaged or destroyed.

(b) When a decision is made to carry out construction under subsection (a) and the cost of the repair, restoration, or replacement is greater than the maximum amount for a minor construction project, the Secretary concerned shall notify the appropriate committees of Congress of that decision, of the justification for the project, of the current estimate of the cost of the project, of the source of funds for the project, and of the justification for carrying out the project under this section. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by such committees in an electronic medium pursuant to section 480 of this title.

(c)(1) In using the authority described in subsection (a) to carry out a military construction project to replace a facility, including a family housing facility, that has been damaged or destroyed, the Secretary concerned may use appropriations available for operation and maintenance if—

(A) the damage or destruction to the facility was the result of a natural disaster or a terrorism incident; and

(B) the Secretary submits a notification to the appropriate committees of Congress of the decision to carry out the replacement project, and includes in the notification—

(i) the current estimate of the cost of the replacement project;

(ii) the source of funds for the replacement project;

(iii) in the case of damage to a facility rather than destruction, a certification that the replacement project is more cost-effective than repair or restoration; and

(iv) a certification that deferral of the replacement project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) A replacement project under this subsection may be carried out only after the end of the 7-day period beginning on the date on which a copy of the notification described in paragraph (1) is provided in an electronic medium pursuant to section 480 of this title.

(3) The maximum aggregate amount that the Secretary concerned may obligate from appropriations available for operation and maintenance in any fiscal year for replacement projects under the authority of this subsection is \$100,000,000.

(Added Pub. L. 97–214, §2(a), July 12, 1982, 96 Stat. 165; amended Pub. L. 102–190, div. B, title XXVIII, §2870(7), Dec. 5, 1991, 105 Stat. 1563; Pub. L. 108–136, div. A, title X, §1031(a)(45), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 115–91, div. B, title XXVIII, §§2801(c)(2), 2805, Dec. 12, 2017, 131 Stat. 1843, 1846; Pub. L. 116–92, div. B, title XXVIII, §2803, Dec. 20, 2019, 133 Stat. 1882.)

#### Editorial Notes

##### AMENDMENTS

2019—Subsec. (c)(3). Pub. L. 116–92 substituted “\$100,000,000” for “\$50,000,000”.

2017—Subsec. (b). Pub. L. 115–91, §2805(b), substituted “under subsection (a)” for “under this section”.

Pub. L. 115–91, §2801(c)(2), struck out “in writing” after “shall notify” and “or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided” after “received by such committees” and substituted “14-day period” for “21-day period”.

Subsec. (c). Pub. L. 115–91, §2805(a), added subsec. (c).

2003—Subsec. (b). Pub. L. 108–136 inserted before period at end “or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title”.

1991—Subsec. (b). Pub. L. 102–190 struck out “(1)” after “carried out only” and “, or (2) after each such committee has approved the project, if the committees approve the project before the end of that period” before period at end.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

**§ 2854a. Conveyance of damaged or deteriorated military family housing; use of proceeds**

(a) **AUTHORITY TO CONVEY.**—(1) The Secretary concerned may convey any family housing facility that, due to damage or deterioration, is in a condition that is uneconomical to repair. Any conveyance of a family housing facility under this section may include a conveyance of the real property associated with the facility conveyed.

(2) The authority of this section does not apply to family housing facilities located at military installations approved for closure under a base closure law or family housing facilities located at an installation outside the United States at which the Secretary of Defense terminates operations.

(3) The aggregate total value of the family housing facilities conveyed by the Department of Defense under the authority in this subsection in any fiscal year may not exceed \$5,000,000.

(4) For purposes of this subsection, a family housing facility is in a condition that is uneconomical to repair if the cost of the necessary repairs for the facility would exceed the amount equal to 70 percent of the cost of constructing a family housing facility to replace such facility.

(b) **CONSIDERATION.**—(1) As consideration for the conveyance of a family housing facility under subsection (a), the person to whom the facility is conveyed shall pay the United States an amount equal to the fair market value of the facility conveyed, including any real property conveyed along with the facility.

(2) The Secretary concerned shall determine the fair market value of any family housing facility and associated real property that is conveyed under subsection (a). Such determination shall be final.

(c) **NOTICE AND WAIT REQUIREMENTS.**—(1) The Secretary concerned may enter into an agreement to convey a family housing facility under this section only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a notice containing a justification for the conveyance under the agreement.

(2) A notice under paragraph (1) shall include—

(A) an estimate of the consideration to be provided the United States under the agreement;

(B) an estimate of the cost of repairing the family housing facility to be conveyed; and

(C) an estimate of the cost of replacing the family housing facility to be conveyed.

(d) **INAPPLICABILITY OF CERTAIN PROPERTY DISPOSAL LAWS.**—The following provisions of law do not apply to the conveyance of a family housing facility under this section:

(1) Subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(2) Title V of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411 et seq.).

(e) **USE OF PROCEEDS.**—(1) The proceeds of any conveyance of a family housing facility under this section shall be credited to the appropriate fund established under section 2883 of this title and shall be available—

(A) to construct family housing units to replace the family housing facility conveyed under this section, but only to the extent that the number of units constructed with such proceeds does not exceed the number of units of military family housing of the facility conveyed;

(B) to repair or restore existing military family housing; and

(C) to reimburse the Secretary concerned for the costs incurred by the Secretary in conveying the family housing facility.

(2) Notwithstanding section 2883(d) of this title, proceeds derived from a conveyance of a family housing facility under this section shall be available under paragraph (1) without any further appropriation.

(f) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of any family housing facility conveyed under this section, including any real property associated with such facility, shall be determined by such means as the Secretary concerned considers satisfactory, including by survey in the case of real property.

(g) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary concerned may require such additional terms and conditions in connection with the conveyance of family housing facilities under this section as the Secretary considers appropriate to protect the interests of the United States.

(Added Pub. L. 104-106, div. B, title XXVIII, §2818(a)(1), Feb. 10, 1996, 110 Stat. 553; amended Pub. L. 107-107, div. A, title X, §1048(d)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107-217, §3(b)(21), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 108-136, div. A, title X, §1031(a)(46), Nov. 24, 2003, 117 Stat. 1602; Pub. L. 111-350, §5(b)(49), Jan. 4, 2011, 124 Stat. 3846; Pub. L. 115-91, div. B, title XXVIII, §2801(c)(3), Dec. 12, 2017, 131 Stat. 1843.)

**Editorial Notes**

## REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (d)(2), is Pub. L. 100-77, July 22, 1987, 101 Stat. 482. Title V of the Act is classified generally to subchapter V (§11411 et seq.) of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

## AMENDMENTS

2017—Subsec. (c). Pub. L. 115-91 added subsec. (c) and struck out former subsec. (c) which set out written notice and wait requirements.

2011—Subsec. (d)(1). Pub. L. 111-350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

2003—Subsec. (c)(2). Pub. L. 108-136 struck out “calendar” after “21” and inserted before period at end “or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the justification is provided in