

(b) When authority provided by law to construct military family housing units is used to acquire existing family housing units under subsection (a), the authority includes authority to acquire interests in land.

(c) The net floor area of a family housing unit acquired under the authority of this section may not exceed the applicable limitation specified in section 2826 of this title. The Secretary concerned may waive the limitation set forth in the preceding sentence to family housing units acquired under this section during the five-year period beginning on February 10, 1996.

(d) Family housing units may not be acquired under this section through the exercise of eminent domain authority.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 159; amended Pub. L. 104-106, div. B, title XXVIII, §2813, Feb. 10, 1996, 110 Stat. 553; Pub. L. 104-201, div. A, title X, §1074(a)(17), Sept. 23, 1996, 110 Stat. 2659.)

#### AMENDMENTS

1996—Subsec. (c). Pub. L. 104-201 substituted “February 10, 1996” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996”.

Pub. L. 104-106 inserted at end “The Secretary concerned may waive the limitation set forth in the preceding sentence to family housing units acquired under this section during the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996.”

#### 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.

### § 2825. Improvements to family housing units

(a)(1) Authority provided by law to improve existing military family housing units and ancillary family housing support facilities is authority to make alterations, additions, expansions, and extensions.

(2) In this section, the term “improvement” includes rehabilitation of a housing unit and major maintenance or repair work to be accomplished concurrently with an improvement project. Such term does not include day-to-day maintenance and repair work.

(b)(1) Funds may not be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units that are to be converted into or are to be used as a single family housing unit, if the cost per unit of such improvement will exceed (A) \$50,000 multiplied by the area construction cost index as developed by the Department of Defense for the location concerned at the time of contract award, or (B) in the case of improvements necessary to make the unit suitable for habitation by a handicapped person, \$60,000 multiplied by such index. The Secretary concerned may waive the limitations contained in the preceding sentence if such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit and the cost of construction and of operation and maintenance of each kind of unit over its useful life, the improvement will be cost-effective. If the Secretary concerned

makes a determination under the preceding sentence with respect to an improvement, the waiver under that sentence with respect to that improvement may take effect only after the Secretary transmits a notice of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective, to the appropriate committees of Congress and a period of 21 days has elapsed after the date on which the notification is received by those committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.

(2) In determining the applicability of the limitation contained in paragraph (1), the Secretary concerned shall include as part of the cost of the improvement of the unit or units concerned the following:

(A) The cost of major maintenance or repair work undertaken in connection with the improvement.

(B) Any cost, other than the cost of activities undertaken beyond a distance of five feet from the unit or units concerned, in connection with—

(i) the furnishing of electricity, gas, water, and sewage disposal;

(ii) the construction or repair of roads, drives, and walks; and

(iii) grading and drainage work.

(3) In determining the applicability of the limitation contained in paragraph (1), the Secretary concerned shall not include as part of the cost of the improvement of the unit or units concerned the following:

(A) The cost of the installation of communications, security, or antiterrorism equipment required by an occupant of the unit or units to perform duties assigned to the occupant as a member of the armed forces.

(B) The cost of the maintenance or repair of equipment described in subparagraph (A) installed for the purpose specified in such subparagraph.

(4) The limitation contained in the first sentence of paragraph (1) does not apply to a project for the improvement of a family housing unit or units referred to in that sentence if the project (including the amount requested for the project) is identified in the budget materials submitted to Congress by the Secretary of Defense in connection with the submission to Congress of the budget for a fiscal year pursuant to section 1105 of title 31.

(c)(1) The Secretary concerned may construct replacement military family housing units in lieu of improving existing military family housing units if—

(A) the improvement of the existing housing units has been authorized by law; and

(B) the Secretary determines that the improvement project is no longer cost-effective after a review of post-design or bid cost estimates.

(2) The amount that may be expended to construct replacement military family housing units under this subsection may not exceed the amount that is otherwise available to carry out the previously authorized improvement project.

(d) This section does not apply to projects authorized for restoration or replacement of housing units that have been damaged or destroyed.

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 159; amended Pub. L. 99-661, div. B, title VII, §2702(c), Nov. 14, 1986, 100 Stat. 4040; Pub. L. 100-26, §7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 100-180, div. B, subdiv. 3, title I, §2305, Dec. 4, 1987, 101 Stat. 1215; Pub. L. 101-189, div. B, title XXVIII, §2804, Nov. 29, 1989, 103 Stat. 1647; Pub. L. 101-510, div. B, title XXVIII, §2812, Nov. 5, 1990, 104 Stat. 1788; Pub. L. 102-484, div. B, title XXVIII, §2802(a), Oct. 23, 1992, 106 Stat. 2605; Pub. L. 103-337, div. B, title XXVIII, §2802, Oct. 5, 1994, 108 Stat. 3050; Pub. L. 104-106, div. A, title XV, §1502(a)(26), Feb. 10, 1996, 110 Stat. 506; Pub. L. 104-201, div. B, title XXVIII, §2803, Sept. 23, 1996, 110 Stat. 2788; Pub. L. 106-398, §1 [div. B, title XXVIII, §2802], Oct. 30, 2000, 114 Stat. 1654, 1654A-413; Pub. L. 108-136, div. A, title X, §1031(a)(41), Nov. 24, 2003, 117 Stat. 1601; Pub. L. 112-81, div. A, title X, §1061(24), Dec. 31, 2011, 125 Stat. 1584.)

#### AMENDMENTS

2011—Subsec. (c)(1). Pub. L. 112-81 inserted “and” at end of subpar. (A), substituted period for semicolon at end of subpar. (B), and struck out subpars. (C) and (D), which read as follows:

“(C) the Secretary submits to the committees referred to in subsection (b)(1) a notice containing—

“(i) an economic analysis demonstrating that the improvement project would exceed 70 percent of the cost of constructing replacement housing units intended for members of the armed forces in the same pay grade or grades as those members who occupy the existing housing units; and

“(ii) if the replacement housing units are intended for members of the armed forces in a different pay grade or grades, a justification of the need for the replacement housing units based upon the long-term requirements of the armed forces in the location concerned; and

“(D) a period of 21 days elapses after the date on which the Secretary submits the notice required by subparagraph (C) or, if over sooner, a period of 14 days elapses after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title.”

2003—Subsec. (b)(1). Pub. L. 108-136, §1031(a)(41)(A), struck out “(i)” before “such Secretary determines” and substituted period and last sentence for “”, and (ii) a period of 21 days elapses after the date on which the appropriate committees of Congress receive a notice from such Secretary of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective.”

Subsec. (c)(1)(D). Pub. L. 108-136, §1031(a)(41)(B), inserted before period at end “or, if over sooner, a period of 14 days elapses after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title”.

2000—Subsec. (b)(3), (4). Pub. L. 106-398 added par. (3) and redesignated former par. (3) as (4).

1996—Subsec. (a)(2). Pub. L. 104-201, §2803(a), inserted “major” before “maintenance or repair” and “Such term does not include day-to-day maintenance and repair work.” at end.

Subsec. (b)(1). Pub. L. 104-106 substituted “appropriate committees of Congress” for “Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives”.

Subsec. (b)(2). Pub. L. 104-201, §2803(b), added par. (2) and struck out former par. (2) which read as follows: “In determining the applicability of the limitation contained in paragraph (1), there shall be included as part

of the cost of the improvement the cost of repairs undertaken in connection with the improvement and any cost in connection with (A) the furnishing of electricity, gas, water and sewage disposal, (B) the construction or repair of roads and walks, and (C) grading and drainage work.”

1994—Subsec. (b)(3). Pub. L. 103-337 added par. (3).

1992—Subsecs. (c), (d). Pub. L. 102-484 added subsec. (c) and redesignated former subsec. (c) as (d).

1990—Subsec. (b)(1). Pub. L. 101-510 substituted “\$50,000” for “\$40,000” in cl. (A) and inserted at end sentence authorizing Secretary concerned to waive limitations contained in preceding sentence.

1989—Subsec. (b)(1). Pub. L. 101-189 inserted “(A)” after “will exceed” and added cl. (B).

1987—Subsec. (a)(2). Pub. L. 100-26 inserted “the term” after “In this section.”

Subsec. (b)(1). Pub. L. 100-180 substituted “\$40,000” for “\$30,000”.

1986—Subsec. (b)(1). Pub. L. 99-661 substituted “\$30,000” for “an amount specified by law for such purpose”.

#### 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.

#### PROVISION OF ADEQUATE STORAGE SPACE TO SECURE PERSONAL PROPERTY OUTSIDE OF ASSIGNED MILITARY FAMILY HOUSING UNIT

Pub. L. 109-364, div. A, title III, §362, Oct. 17, 2006, 120 Stat. 2167, provided that: “The Secretary of a military department shall ensure that a member of the Armed Forces under the jurisdiction of the Secretary who occupies a unit of military family housing is provided with adequate storage space to secure personal property that the member is unable to secure within the unit whenever—

“(1) the member is assigned to duty in an area for which special pay under section 310 of title 37, United States Code, is available and the assignment is pursuant to orders specifying an assignment of 180 days or more; and

“(2) the dependents of the member who otherwise occupy the unit of military family housing are absent from the unit for more than 30 consecutive days during the period of the assignment of the member.”

#### INITIAL ESTABLISHMENT OF CERTAIN AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

Maximum amount of \$30,000 per unit for an improvement project for family housing units under this section during the period beginning Oct. 1, 1982, and ending on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984 or Oct. 1, 1983, whichever is later, see section 11(3) of Pub. L. 97-214, set out as a note under section 2828 of this title.

#### § 2826. Military family housing: local comparability of room patterns and floor areas

(a) LOCAL COMPARABILITY.—In the construction, acquisition, and improvement of military family housing, the Secretary concerned shall ensure that the room patterns and floor areas of military family housing in a particular locality (as designated by the Secretary concerned for purposes of this section) are similar to room patterns and floor areas of similar housing in the private sector in that locality.

(b) REQUESTS FOR AUTHORITY FOR MILITARY FAMILY HOUSING.—(1) In submitting to Congress a request for authority to carry out the construction, acquisition, or improvement of military family housing, the Secretary concerned shall include in the request information on the