

ents and transient housing intended to be occupied by members of the armed forces on temporary duty.

(8) The term “United States” includes the Commonwealth of Puerto Rico.

(Added Pub. L. 104-106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 544; amended Pub. L. 105-261, div. B, title XXVIII, §2803, Oct. 17, 1998, 112 Stat. 2202; Pub. L. 106-65, div. B, title XXVIII, §2803(a), Oct. 5, 1999, 113 Stat. 848; Pub. L. 107-314, div. B, title XXVIII, §2803(b), Dec. 2, 2002, 116 Stat. 2705; Pub. L. 108-136, div. A, title X, §1043(c)(6), Nov. 24, 2003, 117 Stat. 1612; Pub. L. 109-163, div. B, title XXVIII, §2805(b), Jan. 6, 2006, 119 Stat. 3507; Pub. L. 110-417, div. B, title XXVIII, §2805(c), Oct. 14, 2008, 122 Stat. 4723.)

#### AMENDMENTS

2008—Par. (5). Pub. L. 110-417 inserted before period at end “that is prepared to enter into a contract as a partner with the Secretary concerned for the construction of military housing units and ancillary supporting facilities”.

2006—Par. (1). Pub. L. 109-163, §2805(b)(1), inserted “child development centers,” after “day care centers.”

Par. (2). Pub. L. 109-163, §2805(b)(2), added par. (2).

2003—Par. (2). Pub. L. 108-136 struck out par. (2) which read as follows: “The term ‘base closure law’ means the following:

“(A) Section 2687 of this title.

“(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

“(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).”

2002—Par. (7). Pub. L. 107-314 inserted “and transient housing intended to be occupied by members of the armed forces on temporary duty” before period at end.

1999—Pars. (5) to (8). Pub. L. 106-65 added par. (5) and redesignated former pars. (5) to (7) as (6) to (8), respectively.

1998—Par. (1). Pub. L. 105-261 inserted “facilities to provide or support elementary or secondary education,” after “including”.

#### § 2872. General authority

In addition to any other authority provided under this chapter for the acquisition or construction of military family housing or military unaccompanied housing, the Secretary concerned may exercise any authority or any combination of authorities provided under this subchapter in order to provide for the acquisition or construction by eligible entities of the following:

(1) Family housing units on or near military installations within the United States and its territories and possessions.

(2) Military unaccompanied housing units on or near such military installations.

(Added Pub. L. 104-106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 545; amended Pub. L. 106-65, div. B, title XXVIII, §2803(b), Oct. 5, 1999, 113 Stat. 849.)

#### AMENDMENTS

1999—Pub. L. 106-65 substituted “eligible entities” for “private persons” in introductory provisions.

#### § 2872a. Utilities and services

(a) **AUTHORITY TO FURNISH.**—The Secretary concerned may furnish utilities and services re-

ferred to in subsection (b) in connection with any military housing acquired or constructed pursuant to the exercise of any authority or combination of authorities under this subchapter if the military housing is located on a military installation.

(b) **COVERED UTILITIES AND SERVICES.**—The utilities and services that may be furnished under subsection (a) are the following:

- (1) Electric power.
- (2) Steam.
- (3) Compressed air.
- (4) Water.
- (5) Sewage and garbage disposal.
- (6) Natural gas.
- (7) Pest control.
- (8) Snow and ice removal.
- (9) Mechanical refrigeration.
- (10) Telecommunications service.
- (11) Firefighting and fire protection services.
- (12) Police protection services.

(c) **REIMBURSEMENT.**—(1) The Secretary concerned shall be reimbursed for any utilities or services furnished under subsection (a).

(2) The amount of any cash payment received under paragraph (1) shall be credited to the appropriation or working capital account from which the cost of furnishing the utilities or services concerned was paid. Amounts so credited to an appropriation or account shall be merged with funds in such appropriation or account, and shall be available to the same extent, and subject to the same terms and conditions, as such funds.

(Added Pub. L. 106-398, §1 [div. B, title XXVIII, §2805(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-414; amended Pub. L. 107-314, div. B, title XXVIII, §2802(a), Dec. 2, 2002, 116 Stat. 2703.)

#### AMENDMENTS

2002—Subsec. (b)(11), (12). Pub. L. 107-314 added pars. (11) and (12).

#### § 2873. Direct loans and loan guarantees

(a) **DIRECT LOANS.**—(1) Subject to subsection (c), the Secretary concerned may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The Secretary concerned shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.

(b) **LOAN GUARANTEES.**—(1) Subject to subsection (c), the Secretary concerned may guarantee a loan made to an eligible entity if the proceeds of the loan are to be used by the eligible entity to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

(2) The amount of a guarantee on a loan that may be provided under paragraph (1) may not exceed the amount equal to the lesser of—

(A) the amount equal to 80 percent of the value of the project; or

(B) the amount of the outstanding principal of the loan.

(3) The Secretary concerned shall establish such terms and conditions with respect to guarantees of loans under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the rights and obligations of obligors of such loans and the rights and obligations of the United States with respect to such guarantees.

(c) LIMITATION ON DIRECT LOAN AND GUARANTEE AUTHORITY.—Direct loans and loan guarantees may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriation Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))), which shall be available for the disbursement of direct loans or payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of direct loans and guarantees made under this section.

(Added Pub. L. 104-106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 545; amended Pub. L. 106-65, div. B, title XXVIII, §2803(c), Oct. 5, 1999, 113 Stat. 849.)

#### AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106-65, §2803(c)(1), substituted “an eligible entity” for “persons in the private sector” and “the eligible entity” for “such persons”.

Subsec. (b)(1). Pub. L. 106-65, §2803(c)(2), substituted “an eligible entity” for “any person in the private sector” and “the eligible entity” for “the person”.

### § 2874. Leasing of housing

(a) LEASE AUTHORIZED.—The Secretary concerned may enter into contracts for the lease of housing units that the Secretary determines are suitable for use as military family housing or military unaccompanied housing.

(b) USE OF LEASED UNITS.—The Secretary concerned shall utilize housing units leased under this section as military family housing or military unaccompanied housing, as appropriate.

(c) LEASE TERMS.—A contract under this section may be for any period that the Secretary concerned determines appropriate and may provide for the owner of the leased property to operate and maintain the property.

(Added Pub. L. 104-106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 546; amended Pub. L. 107-314, div. B, title XXVIII, §2802(b)(1), (2), Dec. 2, 2002, 116 Stat. 2703.)

#### AMENDMENTS

2002—Pub. L. 107-314, §2802(b)(2), in section catchline struck out “to be constructed” after “Leasing of housing”.

Subsec. (a). Pub. L. 107-314, §2802(b)(1)(B), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “The Secretary concerned may enter into contracts for the lease of military family housing units or military unaccompanied housing units to be constructed under this subchapter.”

Subsecs. (b), (c). Pub. L. 107-314, §2802(b)(1), added subsec. (b) and redesignated former subsec. (b) as (c).

### § 2875. Investments

(a) INVESTMENTS AUTHORIZED.—The Secretary concerned may make investments in an eligible entity carrying out projects for the acquisition or construction of housing units suitable for use as military family housing or as military unaccompanied housing.

(b) FORMS OF INVESTMENT.—An investment under this section may take the form of an acquisition of a limited partnership interest by the United States, a purchase of stock or other equity instruments by the United States, a purchase of bonds or other debt instruments by the United States, or any combination of such forms of investment.

(c) LIMITATION ON VALUE OF INVESTMENT.—(1) The cash amount of an investment under this section in an eligible entity may not exceed an amount equal to 33½ percent of the capital cost (as determined by the Secretary concerned) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(2) If the Secretary concerned conveys land or facilities to an eligible entity as all or part of an investment in the eligible entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the eligible entity proposes to carry out under this section with the investment.

(3) In this subsection, the term “capital cost”, with respect to a project for the acquisition or construction of housing, means the total amount of the costs included in the basis of the housing for Federal income tax purposes.

(d) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary concerned shall enter into collateral incentive agreements with eligible entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

(e) CONGRESSIONAL NOTIFICATION REQUIRED.—Amounts in the Department of Defense Family Housing Improvement Fund or the Department of Defense Military Unaccompanied Housing Improvement Fund may be used to make a cash investment under this section in an eligible entity only after the end of the 30-day period beginning on the date the Secretary of Defense submits written notice of, and justification for, the investment to the appropriate committees of Congress or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 104-106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 546; amended Pub. L. 105-85, div. B, title XXVIII, §2805, Nov. 18, 1997, 111 Stat. 1991; Pub. L. 106-65, div. B, title XXVIII, §2803(d), (h)(1), Oct. 5, 1999, 113 Stat. 849;