

(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;

Pub. L. 108–136, div. A, title X, §1031(a)(50), Nov. 24, 2003, 117 Stat. 1602.)

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–136 inserted before period at end “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”.

1999—Pub. L. 106–65, §2803(h)(1), struck out “in nongovernmental entities” after “Investments” in section catchline.

Subsec. (a). Pub. L. 106–65, §2803(d)(1), substituted “an eligible entity” for “nongovernmental entities”.

Subsec. (c). Pub. L. 106–65, §2803(d)(2), substituted “an eligible entity” for “a nongovernmental entity” in pars. (1) and (2) and “the eligible entity” for “the entity” wherever appearing in pars. (1) and (2).

Subsec. (d). Pub. L. 106–65, §2803(d)(3), substituted “eligible” for “nongovernmental”.

Subsec. (e). Pub. L. 106–65, §2803(d)(4), substituted “an eligible entity” for “a nongovernmental entity”.

1997—Subsec. (e). Pub. L. 105–85 added subsec. (e).

§ 2876. Rental guarantees

The Secretary concerned may enter into agreements with eligible entities that acquire or construct military family housing units or military unaccompanied housing units under this subchapter in order to assure—

- (1) the occupancy of such units at levels specified in the agreements; or
- (2) rental income derived from rental of such units at levels specified in the agreements.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 546; amended Pub. L. 106–65, div. B, title XXVIII, §2803(e), Oct. 5, 1999, 113 Stat. 849.)

AMENDMENTS

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

§ 2877. Differential lease payments

Pursuant to an agreement entered into by the Secretary concerned and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount in addition to the rental payments for the housing made by the members as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 547; amended Pub. L. 106–65, div. B, title XXVIII, §2803(f), Oct. 5, 1999, 113 Stat. 849.)

AMENDMENTS

1999—Pub. L. 106–65 substituted “a lessor” for “a private lessor”.

§ 2878. Conveyance or lease of existing property and facilities

(a) CONVEYANCE OR LEASE AUTHORIZED.—The Secretary concerned may convey or lease property or facilities (including ancillary supporting facilities) to eligible entities for purposes of using the proceeds of such conveyance or lease to carry out activities under this subchapter.

(b) INAPPLICABILITY TO PROPERTY AT INSTALLATION APPROVED FOR CLOSURE.—The authority of this section does not apply to property or facilities located on or near a military installation approved for closure under a base closure law.

(c) COMPETITIVE PROCESS.—The Secretary concerned shall ensure that the time, method, and terms and conditions of the reconveyance or lease of property or facilities under this section from the eligible entity permit full and free competition consistent with the value and nature of the property or facilities involved.

(d) TERMS AND CONDITIONS.—(1) The conveyance or lease of property or facilities under this section shall be for such consideration and upon such terms and conditions as the Secretary concerned considers appropriate for the purposes of this subchapter and to protect the interests of the United States.

(2) As part or all of the consideration for a conveyance or lease under this section, the purchaser or lessor (as the case may be) shall enter into an agreement with the Secretary to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or sublease of a reasonable number of the housing units covered by the conveyance or lease, as the case may be, or in the lease of other suitable housing units made available by the purchaser or lessee.

(e) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—The conveyance or lease of property or facilities under this section shall not be subject to the following provisions of law:

- (1) Section 2667 of this title.
- (2) Subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.
- (3) Section 1302 of title 40.
- (4) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(Added Pub. L. 104–106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 547; amended Pub. L. 105–85, div. A, title X, §1073(a)(60), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106–65, div. B, title XXVIII, §2803(g), Oct. 5, 1999, 113 Stat. 849; Pub. L. 107–107, div. A, title X, §1048(d)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107–217, §3(b)(23), Aug. 21, 2002, 116 Stat. 1297; Pub. L. 110–417, div. B, title XXVIII, §2805(d), Oct. 14, 2008, 122 Stat. 4723; Pub. L. 111–350, §5(b)(50), Jan. 4, 2011, 124 Stat. 3846.)

AMENDMENTS

2011—Subsec. (e)(2). Pub. L. 111–350, which directed substitution of “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.)” in subsec. (d)(2), was executed by making the substitution in subsec. (e)(2) to reflect the probable intent of Congress and the amendment by Pub. L. 110–417. See 2008 Amendment note below.

2008—Subsecs. (c) to (e). Pub. L. 110–417 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

2002—Subsec. (d)(2). Pub. L. 107–217, §3(b)(23)(A), substituted “Subtitle I of title 40 and title III of the” for “The” and “(41 U.S.C. 251 et seq.)” for “(40 U.S.C. 471 et seq.)”.

Subsec. (d)(3). Pub. L. 107–217, §3(b)(23)(B), substituted “Section 1302 of title 40” for “Section 321 of the Act of June 30, 1932 (commonly known as the Economy Act) (40 U.S.C. 303b)”.