

§ 2788. Property accountability: regulations

The Secretary of a military department may prescribe regulations for the accounting for the property of that department and the fixing of responsibility for that property.

(Added Pub. L. 110–181, div. A, title III, §375(a), Jan. 28, 2008, 122 Stat. 83.)

§ 2789. Individual equipment: unauthorized disposition

(a) PROHIBITION.—No member of the armed forces may sell, lend, pledge, barter, or give any clothing, arms, or equipment furnished to such member by the United States to any person other than a member of the armed forces or an officer of the United States who is authorized to receive it.

(b) SEIZURE OF IMPROPERLY DISPOSED PROPERTY.—If a member of the armed forces has disposed of property in violation of subsection (a) and the property is in the possession of a person who is neither a member of the armed forces nor an officer of the United States who is authorized to receive it, that person has no right to or interest in the property, and any civil or military officer of the United States may seize the property, wherever found, subject to applicable regulations. Possession of such property furnished by the United States to a member of the armed forces by a person who is neither a member of the armed forces, nor an officer of the United States, is prima facie evidence that the property has been disposed of in violation of subsection (a).

(c) DELIVERY OF SEIZED PROPERTY.—If an officer who seizes property under subsection (b) is not authorized to retain it for the United States, the officer shall deliver the property to a person who is authorized to retain it.

(Added Pub. L. 110–181, div. A, title III, §375(a), Jan. 28, 2008, 122 Stat. 83.)

§ 2790. Recovery of improperly disposed of Department of Defense property

(a) PROHIBITION.—No member of the armed forces, civilian employee of the United States Government, contractor personnel, or other person may sell, lend, pledge, barter, or give any clothing, arms, articles, equipment, or other military or Department of Defense property except in accordance with the statutes and regulations governing Government property.

(b) TRANSFER OF TITLE OR INTEREST INEFFECTIVE.—If property has been disposed of in violation of subsection (a), the person holding the property has no right or title to, or interest in, the property.

(c) AUTHORITY FOR SEIZURE OF IMPROPERLY DISPOSED OF PROPERTY.—If any person is in the possession of military or Department of Defense property without right or title to, or interest in, the property because it has been disposed of in material violation of subsection (a), any Federal, State, or local law enforcement official may seize the property wherever found. Unless an exception to the warrant requirement under the fourth amendment to the Constitution applies, seizure may be made only—

(1) pursuant to—

(A) a warrant issued by the district court of the United States for the district in which the property is located, or for the district in which the person in possession of the property resides or is subject to service; or

(B) pursuant to an order by such court, issued after a determination of improper transfer under subsection (e); and

(2) after such a court has issued such a warrant or order.

(d) INAPPLICABILITY TO CERTAIN PROPERTY.—Subsections (b) and (c) shall not apply to—

(1) property on public display by public or private collectors or museums in secured exhibits; or

(2) property in the collection of any museum or veterans organization or held in a private collection for the purpose of public display, provided that any such property, the possession of which could undermine national security or create a hazard to public health or safety, has been fully demilitarized.

(e) DETERMINATIONS OF VIOLATIONS.—(1) The district court of the United States for the district in which the property is located, or the district in which the person in possession of the property resides or is subject to service, shall have jurisdiction, regardless of the current approximated or estimated value of the property, to determine whether property was disposed of in violation of subsection (a). Any such determination shall be by a preponderance of the evidence.

(2) Except as provided in paragraph (3), in the case of property, the possession of which could undermine national security or create a hazard to public health or safety, the determination under paragraph (1) may be made after the seizure of the property, as long as the United States files an action seeking such determination within 90 days after seizure of the property. If the person from whom the property is seized is found to have been lawfully in possession of the property and the return of the property could undermine national security or create a hazard to public health or safety, the Secretary of Defense shall reimburse the person for the market value for the property.

(3) Paragraph (2) shall not apply to any firearm, ammunition, or ammunition component, or firearm part or accessory that is not prohibited for commercial sale.

(f) DELIVERY OF SEIZED PROPERTY.—Any law enforcement official who seizes property under subsection (c) and is not authorized to retain it for the United States shall deliver the property to an authorized member of the armed forces or other authorized official of the Department of Defense or the Department of Justice.

(g) SCOPE OF ENFORCEMENT.—This section shall apply to the following:

(1) Any military or Department of Defense property disposed of after January 6, 2011, in a manner that is not in accordance with statutes and regulations governing Government property in effect at the time of the disposal of such property.

(2) Any significant military equipment disposed of on or after January 1, 2002, in a manner that is not in accordance with statutes

and regulations governing Government property in effect at the time of the disposal of such significant military equipment.

(h) RULE OF CONSTRUCTION.—The authority of this section is in addition to any other authority of the United States with respect to property to which the United States may have right or title.

(i) DEFINITIONS.—In this section:

(1) The term “significant military equipment” means defense articles on the United States Munitions List for which special export controls are warranted because of their capacity for substantial military utility or capability.

(2) The term “museum” has the meaning given that term in section 273(1) of the Museum Services Act (20 U.S.C. 9172(1)).

(3) The term “fully demilitarized” means, with respect to equipment or material, the destruction of the military offensive or defensive advantages inherent in the equipment or material, including, at a minimum, the destruction or disabling of key points of such equipment or material, such as the fuselage, tail assembly, wing spar, armor, radar and radomes, armament and armament provisions, operating systems and software, and classified items.

(4) The term “veterans organization” means any organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38.

(Added Pub. L. 111-383, div. A, title III, §355(a), Jan. 7, 2011, 124 Stat. 4195; amended Pub. L. 112-239, div. A, title X, §1076(e)(5), Jan. 2, 2013, 126 Stat. 1951.)

AMENDMENTS

2013—Subsec. (g)(1). Pub. L. 112-239 substituted “after January 6, 2011,” for “on or after the date of the enactment of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011”.

[CHAPTER 167—REPEALED]

[§ 2791. Repealed. Pub. L. 104-201, div. A, title XI, § 1121(b), Sept. 23, 1996, 110 Stat. 2687]

Section, added Pub. L. 97-295, §1(50)(C), Oct. 12, 1982, 96 Stat. 1299, related to establishment and duties of Defense Mapping Agency.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

[§ 2792. Renumbered § 451]

[§ 2793. Renumbered § 452]

[§ 2794. Renumbered § 453]

[§ 2795. Renumbered § 454]

[§ 2796. Renumbered § 455]

[§ 2797. Repealed. Pub. L. 104-201, div. A, title XI, § 1121(b), Sept. 23, 1996, 110 Stat. 2687]

Section, added Pub. L. 103-337, div. A, title X, §1074(a), Oct. 5, 1994, 108 Stat. 2861, related to unauthorized use of Defense Mapping Agency name, initials, or seal.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

[§ 2798. Renumbered § 456]

CHAPTER 169—MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING

Subchapter	Sec.
I. Military Construction	2801
II. Military Family Housing	2821
III. Administration of Military Construction and Military Family Housing.	2851
IV. Alternative Authority for Acquisition and Improvement of Military Housing	2871

AMENDMENTS

1996—Pub. L. 104-106, div. B, title XXVIII, §2801(a)(2), Feb. 10, 1996, 110 Stat. 551, added item for subchapter IV.

SUBCHAPTER I—MILITARY CONSTRUCTION

Sec.	
2801.	Scope of chapter; definitions.
2802.	Military construction projects.
2803.	Emergency construction.
2804.	Contingency construction.
2805.	Unspecified minor construction.
2806.	Contributions for North Atlantic Treaty Organizations Security Investment.
2807.	Architectural and engineering services and construction design.
2808.	Construction authority in the event of a declaration of war or national emergency.
2809.	Long-term facilities contracts for certain activities and services.
[2810.	Repealed.]
2811.	Repair of facilities.
2812.	Lease-purchase of facilities.
2813.	Acquisition of existing facilities in lieu of authorized construction.
2814.	Special authority for development of Ford Island, Hawaii.
[2815.	Repealed.]

AMENDMENTS

2011—Pub. L. 112-81, div. A, title X, §1061(23)(B), Dec. 31, 2011, 125 Stat. 1584, struck out item 2815 “Joint use military construction projects: annual evaluation”.

2002—Pub. L. 107-314, div. A, title III, §313(d)(2), Dec. 2, 2002, 116 Stat. 2508, struck out item 2810 “Construction projects for environmental response actions”.

2000—Pub. L. 106-398, §1 [div. B, title XXVIII, §2801(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-412, added item 2815.

1999—Pub. L. 106-65, div. B, title XXVIII, §2802(a)(2), Oct. 5, 1999, 113 Stat. 848, added item 2814.

1996—Pub. L. 104-201, div. B, title XXVIII, §2802(c)(2), Sept. 23, 1996, 110 Stat. 2787, substituted “Organizations Security Investment” for “Organization Infrastructure” in item 2806.

Pub. L. 104-106, div. A, title XV, §1503(a)(31), Feb. 10, 1996, 110 Stat. 512, inserted period at end of item 2811.

1994—Pub. L. 103-337, div. B, title XXVIII, §2801(b), Oct. 5, 1994, 108 Stat. 3050, substituted “Repair” for “Renovation” in item 2811.

1993—Pub. L. 103-160, div. B, title XXVIII, §2805(a)(2), Nov. 30, 1993, 107 Stat. 1887, added item 2813.

1991—Pub. L. 102-190, div. B, title XXVIII, §2805(a)(2), Dec. 5, 1991, 105 Stat. 1538, substituted “Long-term facilities contracts for certain activities and services” for “Test of long-term facilities contracts” in item 2809.

1989—Pub. L. 101-189, div. B, title XXVIII, §2809(b), Nov. 29, 1989, 103 Stat. 1650, added item 2812.

1987—Pub. L. 100-26, §7(e)(3), Apr. 21, 1987, 101 Stat. 281, redesignated item 2810 “Renovation of facilities” as item 2811.