

## TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of Housing and Urban Development, see note set out under section 1581 of this title.

## SUBCHAPTER XI—HOUSING FOR MILITARY PERSONNEL

## § 1594. Contracts for construction

## (a) Contract provisions; competitive bids

The Secretary of Defense or his designee is authorized to enter into contracts with any eligible bidder to provide for the construction of urgently needed housing on lands owned or leased by the United States and situated on or near a military reservation or installation for the purpose of providing suitable living accommodations for military personnel of the armed services assigned to duty at the military installation at or in the area where the housing is situated. Any such contract shall provide that each housing unit in the project shall be placed under the control of the Secretary of Defense, or his designee, as soon as the unit is available for occupancy as determined by the Secretary of Housing and Urban Development. Any such contract shall also provide that, except for stock held by the Secretary of Housing and Urban Development, the capital stock of the mortgagor (where the mortgagor is a corporation) be transferred to the Secretary of Defense, or his designee, when the housing has been completed as determined by the Secretary of Housing and Urban Development. Any such contract shall contain such terms and conditions as the Secretary of Defense may determine to be necessary to protect the interests of the United States. Any such contract shall provide for the furnishing by the contractor of a performance bond and a payment bond with a surety or sureties satisfactory to the Secretary of Defense, or his designee, and the furnishing of such bonds shall be deemed a sufficient compliance with the provisions of section 3131 of title 40, and no additional bonds shall be required under such section. Before the Secretary of Defense shall enter into any contract as authorized by this section for the construction of housing, he shall invite the submission of competitive bids after advertising in the manner prescribed in section 2305 of title 10.

## (b) "Eligible bidder" defined

For the purposes of this subchapter, the term "eligible bidder" means a person, partnership, firm, or corporation determined by the Secretary of Defense after consultation with the Secretary of Housing and Urban Development (1) to be qualified by experience and financial responsibility to construct housing of the type described in subsection (a) of this section, and (2) to have submitted the lowest acceptable bid.

## (c) Acquisition of capital stock of property covered by mortgage

Notwithstanding any other provision of law, the Secretary of Defense or his designee is authorized to acquire the capital stock of mortgagors holding property covered by a mortgage insured under title VIII of the National Housing Act as amended by the Housing Amendments of

1955 [12 U.S.C. 1748 et seq.], and to exercise the rights as holder of such capital stock during the life of such mortgage and, upon the termination of the mortgage, to dissolve the corporation; to guarantee the payment of notes or other legal instruments required by the Secretary of Housing and Urban Development of such mortgagors; to make payments thereon; and to guarantee and indemnify the Armed Services Housing Mortgage Insurance Fund against loss in cases where so required. All housing facilities placed under the control of the Secretary of Defense pursuant to the provisions of this subchapter shall be deemed to be housing facilities under the jurisdiction of the military department to which they are assigned.

## (d) Opinion as to title to property; guarantee; title search and title insurance

On request by the Secretary of Defense, the Attorney General shall furnish to the Secretary of Defense, or his designee, an opinion as to the sufficiency of title to any property on which it is proposed to construct housing, or on which housing has been constructed, under this section. If the opinion of the Attorney General is that the title to any such property is good and sufficient, the Secretary of Defense is authorized to guarantee, or enter into a commitment to guarantee, the mortgagee, under a mortgage on such property which is insured under title VIII of the National Housing Act [12 U.S.C. 1748 et seq.], against any losses that may thereafter arise from adverse claims to title. None of the proceeds of any mortgage loan hereafter insured under such title VIII shall be used for title search and title insurance costs: *Provided*, That if the Secretary of Defense, or his designee, determines in the case of any housing project, that the financing of the construction of such project is impossible unless title insurance is provided, the Secretary of Defense may provide for the payment of the reasonable costs necessary for obtaining title search and title insurance. Any payments by the Secretary of Defense hereunder shall be made from the revolving fund established under section 1594a(g)<sup>1</sup> of this title. Any determination by the Secretary of Defense under the foregoing proviso shall be set forth in writing, together with the reasons therefor. The Committees on Armed Services of the Senate and House of Representatives shall be promptly notified of each such determination, and of the amount of any payment made by the Secretary of Defense for title search and title insurance costs.

(Aug. 11, 1955, ch. 783, title IV, §403, 69 Stat. 651; Aug. 7, 1956, ch. 1029, title V, §§506(b)-(d), 507, 70 Stat. 1110; Pub. L. 86-149, title IV, §415, Aug. 10, 1959, 73 Stat. 323; Pub. L. 90-19, §12(d), (h)(1)-(3), May 25, 1967, 81 Stat. 23, 24.)

## REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (c) and (d), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title VIII of the National Housing Act is classified generally to subchapter VIII (§1748 et seq.) of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

<sup>1</sup> See References in Text note below.

Section 1594a(g) of this title, referred to in subsec. (d), was repealed by Pub. L. 87-554, title V, §501(d), July 27, 1962, 76 Stat. 237.

#### CODIFICATION

In subsec. (a), “section 3131 of title 40” substituted for “section 1 of the Act of August 24, 1935 (49 Stat. 793)” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

In subsec. (a), “section 2305 of title 10” substituted for “section 3 of the Armed Forces Procurement Act of 1947” on authority of act Aug. 10, 1956, ch. 1041, §49(b), 70A Stat. 640, the first section of which enacted Title 10, Armed Forces. Prior to enactment of Title 10, section 3 of the Armed Forces Procurement Act of 1947 was classified to section 152 of former Title 41, Public Contracts.

#### AMENDMENTS

1967—Subsecs. (a) to (c). Pub. L. 90-19, §12(d), substituted “Secretary of Housing and Urban Development” for “Commissioner” wherever appearing.

Subsec. (a). Pub. L. 90-19, §12(h)(1), substituted “Secretary of Defense” for “Secretary” in fourth and sixth sentences.

Subsec. (b). Pub. L. 90-19, §12(h)(2), substituted “Secretary of Defense” for “Secretary”.

Subsec. (d). Pub. L. 90-19, §12(h)(3), substituted “Secretary of Defense” for “Secretary” in last three sentences.

1959—Subsec. (d). Pub. L. 86-149 added subsec. (d).

1956—Subsec. (a). Act Aug. 7, 1956, §§506(b), (c), (d), 507, substituted “eligible bidder” for “eligible builder” in first sentence; substituted “the mortgagor” for “the builder” in two places in third sentence; inserted provision before last sentence, relating to furnishing by contractor of a performance bond and a payment bond with surety satisfactory to Secretary; and struck out from last sentence “with any builder” after “Before the Secretary shall enter into any contract”.

Subsec. (b). Act Aug. 7, 1956, §506(b), substituted “eligible bidder” for “eligible builder”.

### § 1594a. Acquisition of military housing financed under Armed Services Housing Mortgage Insurance Fund and rental housing at military bases

#### (a) Purchase price

Whenever the Secretary of Defense or his designee deems it necessary for the purpose of this subchapter, he may acquire, by purchase, donation, condemnation, or other means of transfer, any land or (with the approval of the Secretary of Housing and Urban Development) (1) any housing financed with mortgages insured under title VIII of the National Housing Act [12 U.S.C. 1748 et seq.] as in effect prior to August 11, 1955, or (2) any housing situated adjacent to a military installation which was (A) completed prior to July 1, 1952, (B) certified by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Secretary of Housing and Urban Development, and (C) financed with mortgages insured under section 207 of the National Housing Act [12 U.S.C. 1713], or (3) any housing situated on or adjacent to a military installation which was (A) completed prior to July 1, 1952, (B) considered by the Department of Defense, prior to construction, as being necessary to meet an existing military family housing need and considered as military housing by the Secretary of Housing and Urban Development, and (C) financed with

mortgages insured under section 608 of the National Housing Act [12 U.S.C. 1743], including adjacent property constructed primarily to provide commercial facilities for the occupants of such housing. The purchase price of any such housing shall not exceed the Secretary of Housing and Urban Development’s estimate of the replacement cost of such housing and related property (not including the value of any improvements installed or constructed with appropriated funds) as of the date of final endorsement for mortgage insurance reduced by an appropriate allowance representing the estimated cost of repairs and replacements necessary to restore the property to sound physical condition, as determined by the Secretary of Defense or his designee upon the advice of the Secretary of Housing and Urban Development: *Provided*, That in any case where the Secretary of Defense or his designee acquires a project held by the Secretary of Housing and Urban Development, the price paid shall not exceed the face value of the debentures (plus accrued interest thereon) which the Secretary of Housing and Urban Development issued in acquiring such project.

#### (b) Housing at or near a military installation

Notwithstanding any provision of subsection (a) of this section to the contrary, the Secretary of Defense or his designee shall, in the manner provided in subsection (a) of this section, acquire by purchase, donation, or other means of transfer or, if the parties cannot agree upon terms for acquisition by such means, by condemnation, any housing described in clause (1) or (2) of subsection (a) of this section which is located at or near a military installation where the construction of housing under the Armed Services Housing Mortgage Insurance Program has been approved by the Secretary.

#### (c) Condemnation; procedures; deposit; payment; interest

(1) Condemnation proceedings instituted pursuant to this section shall be conducted in accordance with the provisions of section 3113 of title 40, or any other applicable Federal statute. Before any such condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation. In any such condemnation proceedings, and in the interests of expedition, the issue of just compensation may be determined by a commission of three qualified, disinterested persons to be appointed by the court. Any commission appointed hereunder shall give full consideration to all elements of value in accordance with existing law, and shall have the powers of a master provided in subdivision (c) of rule 53 of the Federal Rules of Civil Procedure and proceedings before it shall be governed by the provisions of paragraphs (1) and (2) of subdivision (d) of such rule. Its action and report shall be determined by a majority and its findings and report shall have the effect, and be dealt with by the court in accordance with the practice prescribed in paragraph (2) of subdivision (e) of such rule. Trial of all issues, other than just compensation, shall be by the court.

(2) In any condemnation proceedings instituted to acquire any such housing, or interest therein, the court shall not order the party in