

§ 2881. Ancillary supporting facilities

(a) **AUTHORITY TO ACQUIRE OR CONSTRUCT.**—Any project for the acquisition or construction of military family housing units or military unaccompanied housing units under this subchapter may include the acquisition or construction of ancillary supporting facilities for the housing units concerned.

(b) **RESTRICTION.**—A project referred to in subsection (a) may not include the acquisition or construction of an ancillary supporting facility (other than a child development center) if, as determined by the Secretary concerned, the facility is to be used for providing merchandise or services in direct competition with—

- (1) the Army and Air Force Exchange Service;
- (2) the Navy Exchange Service Command;
- (3) a Marine Corps exchange;
- (4) the Defense Commissary Agency; or
- (5) any nonappropriated fund activity of the Department of Defense for the morale, welfare, and recreation of members of the armed forces.

(Added Pub. L. 104-106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 106-65, div. B, title XXVIII, §2804, Oct. 5, 1999, 113 Stat. 849; Pub. L. 109-163, div. B, title XXVIII, §2805(a), Jan. 6, 2006, 119 Stat. 3507.)

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-163 inserted “(other than a child development center)” after “ancillary supporting facility” in introductory provisions.

1999—Pub. L. 106-65 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

CONSTRUCTION OF 2006 AMENDMENT

Pub. L. 109-163, div. B, title XXVIII, §2805(c), Jan. 6, 2006, 119 Stat. 3507, provided that: “Nothing in the amendment made by subsection (a) [amending this section] may be construed to alter any law and regulation applicable to the operation of a child development center, as defined in section 2871(2) of title 10, United States Code.”

§ 2881a. Pilot projects for acquisition or construction of military unaccompanied housing

(a) **PILOT PROJECTS AUTHORIZED.**—The Secretary of the Navy may carry out not more than three pilot projects under the authority of this section or another provision of this subchapter to use the private sector for the acquisition or construction of military unaccompanied housing in the United States, including any territory or possession of the United States.

(b) **TREATMENT OF HOUSING; ASSIGNMENT OF MEMBERS.**—The Secretary of the Navy may assign members of the armed forces without dependents to housing units acquired or constructed under the pilot projects, and such housing units shall be considered as quarters of the United States or a housing facility under the jurisdiction of the Secretary for purposes of section 403 of title 37.

(c) **BASIC ALLOWANCE FOR HOUSING.**—(1) The Secretary of Defense may prescribe and, under section 403(n) of title 37, pay for members of the armed forces without dependents in privatized housing acquired or constructed under the pilot projects higher rates of partial basic allowance

for housing than the rates authorized under paragraph (2) of such section.

(2) The partial basic allowance for housing paid for a member at a higher rate under this subsection may be paid directly to the private sector source of the housing to whom the member is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

(d) **FUNDING.**—(1) The Secretary of the Navy shall use the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under the pilot projects.

(2) Subject to 30 days prior notification to the appropriate committees of Congress, such additional amounts as the Secretary of Defense considers necessary may be transferred to the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in military construction accounts. The amounts so transferred shall be merged with and be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund.

(e) **REPORTS.**—(1) The Secretary of the Navy shall transmit to the appropriate committees of Congress a report describing—

(A) each contract for the acquisition of military unaccompanied housing that the Secretary proposes to solicit under the pilot projects;

(B) each conveyance or lease proposed under section 2878 of this title in furtherance of the pilot projects; and

(C) the proposed partial basic allowance for housing rates for each contract as they vary by grade of the member and how they compare to basic allowance for housing rates for other contracts written under the authority of the pilot programs.

(2) The report shall describe the proposed contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation. The report shall be submitted not later than 30 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease or, if earlier, a period of 20 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.

(f) **EXPIRATION.**—The authority of the Secretary of the Navy to enter into a contract under the pilot programs shall expire September 30, 2009.

(Added Pub. L. 107-314, div. B, title XXVIII, §2803(a)(1), Dec. 2, 2002, 116 Stat. 2703; amended Pub. L. 109-163, div. A, title X, §1056(c)(10), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 109-364, div. B, title XXVIII, §2812, Oct. 17, 2006, 120 Stat. 2473; Pub. L. 111-383, div. B, title XXVIII, §2803(f), Jan. 7, 2011, 124 Stat. 4459.)

AMENDMENTS

2011—Subsec. (e)(2). Pub. L. 111-383 inserted before period at end “or, if earlier, a period of 20 days has

elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title”.

2006—Subsecs. (d)(2), (e)(2). Pub. L. 109-364, § 2812(a), substituted “30 days” for “90 days”.

Subsec. (f). Pub. L. 109-364, § 2812(b), substituted “2009” for “2007”.

Pub. L. 109-163 substituted “The” for “Notwithstanding section 2885 of this title, the”.

§ 2882. Effect of assignment of members to housing units acquired or constructed under alternative authority

(a) TREATMENT AS QUARTERS OF THE UNITED STATES.—Except as provided in subsection (b), housing units acquired or constructed under this subchapter shall be considered as quarters of the United States or a housing facility under the jurisdiction of a uniformed service for purposes of section 403 of title 37.

(b) AVAILABILITY OF BASIC ALLOWANCE FOR HOUSING.—A member of the armed forces who is assigned to a housing unit acquired or constructed under this subchapter that is not owned or leased by the United States shall be entitled to a basic allowance for housing under section 403 of title 37.

(c) LEASE PAYMENTS THROUGH PAY ALLOTMENTS.—The Secretary concerned may require members of the armed forces who lease housing in housing units acquired or constructed under this subchapter to make lease payments for such housing pursuant to allotments of the pay of such members under section 701 of title 37.

(Added Pub. L. 104-106, div. B, title XXVIII, § 2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 105-85, div. A, title VI, § 603(d)(2)(C), Nov. 18, 1997, 111 Stat. 1783; Pub. L. 110-417, div. B, title XXVIII, § 2805(e)(1), Oct. 14, 2008, 122 Stat. 4723.)

AMENDMENTS

2008—Pub. L. 110-417 amended section generally. Prior to amendment, section related to assignment of members of the armed forces to housing units by the Secretary concerned, treatment of such housing as quarters of the United States, entitlement to a basic allowance for housing, and making of lease payments through pay allotments.

1997—Subsec. (b)(1). Pub. L. 105-85, § 603(d)(2)(C)(i), substituted “section 403” for “section 403(b)”.

Subsec. (b)(2). Pub. L. 105-85, § 603(d)(2)(C)(ii), substituted “basic allowance for housing under section 403 of title 37” for “basic allowance for quarters under section 403 of title 37 and, if in a high housing cost area, a variable housing allowance under section 403a of that title”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105-85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

§ 2883. Department of Defense Housing Funds

(a) ESTABLISHMENT.—There are hereby established on the books of the Treasury the following accounts:

(1) The Department of Defense Family Housing Improvement Fund.

(2) The Department of Defense Military Unaccompanied Housing Improvement Fund.

(b) COMMINGLING OF FUNDS PROHIBITED.—(1) The Secretary of Defense shall administer each Fund separately.

(2) Amounts in the Department of Defense Family Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military family housing.

(3) Amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund may be used only to carry out activities under this subchapter with respect to military unaccompanied housing.

(c) CREDITS TO FUNDS.—(1) There shall be credited to the Department of Defense Family Housing Improvement Fund the following:

(A) Amounts authorized for and appropriated to that Fund.

(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition, improvement, or construction of military family housing.

(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military family housing.

(D) Income derived from any activities under this subchapter with respect to military family housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

(E) Any amounts that the Secretary of the Navy transfers to that Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.

(F) Any amounts that the Secretary concerned transfers to that Fund pursuant to section 2869 of this title.

(2) There shall be credited to the Department of Defense Military Unaccompanied Housing Improvement Fund the following:

(A) Amounts authorized for and appropriated to that Fund.

(B) Subject to subsection (f), any amounts that the Secretary of Defense transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Defense for the acquisition or construction of military unaccompanied housing.

(C) Proceeds from the conveyance or lease of property or facilities under section 2878 of this title for the purpose of carrying out activities under this subchapter with respect to military unaccompanied housing.

(D) Income derived from any activities under this subchapter with respect to military unaccompanied housing, including interest on loans made under section 2873 of this title, income and gains realized from investments under section 2875 of this title, and any return of capital invested as part of such investments.

(E) Any amounts that the Secretary of the Navy transfers to that Fund pursuant to section 2814(i)(3) of this title, subject to the restrictions on the use of the transferred amounts specified in that section.