

**(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.

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

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

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) to the contrary, the Secretary of Defense or his designee shall, in the manner provided in subsection (a), 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 possession to surrender possession in advance of final judgment unless a declaration of taking has been filed, and a deposit of the amount estimated to be just compensation has been made, under section 3114(a) to (d) of title 40. The amount of such deposit for the purpose of this section shall not in any case be less than an amount equal to the actual cost of the housing (not including the value of any improvements installed or constructed with appropriated funds) as certified by the sponsor or owner of the project to the Secretary of Housing and Urban Development pursuant to any statute or any regulations issued by the Secretary of Housing and Urban Development, reduced by the amount of the principal obligation of the mortgage outstanding at the time possession is surrendered, but any such deposit shall not include any excess mortgage proceeds or "windfalls," kickbacks and rebates received in connection with the construction of said housing as determined by the Department of Defense, or any other Federal agency. The amount of such deposit in any case where the sponsor or owner has not certified the cost of the project to the Secretary of Housing and Urban Development at August 10, 1959, shall be determined by the Secretary of Defense, or his designee, in accordance with sections 3114 to 3116 and 3118 of title 40, with a view toward accurately estimating the equity of the sponsor or owner: *Provided*, That in the event there is withdrawn from the registry of the court by the owner or sponsor a sum of money in excess of the final award of just compensation, this excess shall be repaid to the United States plus a sum equal to 4 per centum per annum on such excess from the time such sum is deposited in the registry of the court: *Provided further*, That any court in which money is deposited as provided in this section shall require the furnishing of security by the owner to protect the United States from any loss by reason of a final award of just compensation of less than the amount deposited: *And provided further*, That the deposit required to be made by this section shall be without prejudice to any party in the determination of just compensation. Unless title is in dispute, the court, upon application and subject to the foregoing provisions of this subsection, shall promptly pay to the owner at least 75 per centum of the amount so deposited, but such payment shall be made without prejudice to any

party to the proceeding. In the event that condemnation proceedings are instituted in accordance with procedures under sections 3114 to 3116 and 3118 of title 40, the court shall order that the amount deposited shall be paid in a lump sum or over a period not exceeding five years in accordance with stipulations executed by the parties in the proceedings. In connection with condemnation proceedings which do not utilize the procedures under such sections, the Secretary of Defense or his designee, after final judgment of the court, may pay or agree to pay in a lump sum or, in accordance with stipulations executed by the parties to the proceedings, over a period not exceeding five years the difference between the outstanding principal obligation, plus accrued interest, and the price for the property fixed by the court. Unless such payment is made in a lump sum, the unpaid balance thereof shall bear interest at the rate of 4 per centum per annum.

**(d) Occupancy; use, or improvement of property before approval of title**

Property acquired under this section may be occupied, used, and improved for the purposes of this section prior to the approval of title by the Attorney General as required by sections 3111 and 3112 of title 40.

**(e) Release of accrual requirements for replacement, taxes, and hazard insurance reserves**

The Secretary of Defense or his designee may, in the case of any housing acquired or to be acquired under this section, make arrangements with the mortgage whereby such mortgage will agree to release and waive all requirements of accruals for reserves for replacement, taxes, and hazard insurance provided for under the corporate charter and indenture agreement with respect to such housing, upon the execution of a written agreement by the Secretary or his designee that the purposes for which such reserves and other funds were accrued will be carried out.

**(f) Use as public quarters or lease of housing**

Any housing acquired under this section may be (1) assigned as public quarters to military personnel and their dependents; or (2) leased to military and civilian personnel for occupancy by them and their dependents, upon such terms and conditions as will in the judgment of the Secretary of Defense or his designee be in the best interest of the United States, without loss to military personnel of their basic allowance for quarters or appropriate allotments.

(Aug. 11, 1955, ch. 783, title IV, § 404, 69 Stat. 652; Aug. 3, 1956, ch. 939, title IV, § 420, 70 Stat. 1019; Aug. 7, 1956, ch. 1029, title V, § 512, 70 Stat. 1111; Pub. L. 85-104, title V, § 504, July 12, 1957, 71 Stat. 303; Pub. L. 85-685, title V, § 513(d), Aug. 20, 1958, 72 Stat. 663; Pub. L. 86-149, title IV, § 418, Aug. 10, 1959, 73 Stat. 323; Pub. L. 86-372, title VII, §§ 702(a), (b), 703, Sept. 23, 1959, 73 Stat. 683; Pub. L. 87-554, title V, § 501(d), July 27, 1962, 76 Stat. 237; Pub. L. 88-560, title X, § 1003, Sept. 2, 1964, 78 Stat. 806; Pub. L. 90-19, § 12(e), (h)(4)-(6), May 25, 1967, 81 Stat. 23, 24.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), 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.

CODIFICATION

In subsec. (c)(1), "section 3113 of title 40" substituted for "the Act of August 1, 1888 (25 Stat. 357; 40 U.S.C. 257), as amended", in subsec. (c)(2), "section 3114(a) to (d) of title 40" substituted for "the first section of the Act of February 26, 1931 (46 Stat. 1421)", "sections 3114 to 3116 and 3118 of title 40" substituted for "the Act of February 26, 1931 (46 Stat. 1421)" and for "such Act of February 26, 1931", and, in subsec. (d), "sections 3111 and 3112 of title 40" substituted for "section 355 of the Revised Statutes, as amended", 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.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19, § 12(e)(1)-(3), (h)(4), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing in first sentence, "Secretary of Housing and Urban Development's" for "Federal Housing Commissioner's", "Secretary of Housing and Urban Development" for "Commissioner" wherever appearing in second sentence, and "Secretary of Defense" for "Secretary" in proviso, respectively.

Subsec. (c)(2). Pub. L. 90-19, § 12(e)(1), (h)(5), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing and "Secretary of Defense" for "Secretary" in penultimate sentence, respectively.

Subsec. (e). Pub. L. 90-19, § 12(h)(6), substituted "Secretary of Defense" for "Secretary".

1964—Subsec. (a). Pub. L. 88-560 authorized acquisition of housing on or adjacent to a military installation completed prior to July 1, 1952, considered necessary to meet existing military family need, considered military housing by the Federal Housing Commissioner, and financed with mortgages insured under section 608 of the National Housing Act, including adjacent property constructed primarily to provide commercial facilities for the occupants of such housing.

1962—Subsec. (f). Pub. L. 87-554 struck out provision for deposit in the revolving fund of amounts equal to the quarters allowances or appropriate allotments of military personnel to whom housing is assigned as public quarters and rental charges for leasing of housing to military and civilian personnel.

Subsec. (g). Pub. L. 87-554 repealed subsec. (g) creating the revolving fund, enumerating uses of the fund and requiring the deposit in the fund of specified quarters allowances or allotments, rental charges and savings realized in operation of housing.

Subsec. (h). Pub. L. 87-554 repealed subsec. (h) requiring the establishment of the revolving fund on the books of the Treasury Department, limiting appropriation authorization for revolving fund capital to \$50,000,000 and permitting the transfer of certain funds to provide adequate capital for the fund.

1959—Subsec. (a). Pub. L. 86-372, § 702(a), authorized acquisition of any housing situated adjacent to a military installation which was completed prior to July 1, 1952, 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 Federal Housing Commissioner, and financed with mortgages insured under section 207 of the National Housing Act.

Subsec. (b). Pub. L. 86-372, § 702(b), substituted "any housing described in clause (1) or (2) of subsection (a) of this section" for "any housing constructed under the mortgage insurance provisions of sections 1748 to 1748h of title 12 (as in effect prior to Aug. 11, 1955)".

Subsec. (c)(2). Pub. L. 86-372, § 703, required the amount of the deposit in any case where the sponsor or

owner has not certified the cost of the project to be determined with a view toward accurately estimating the equity of the sponsor or owner.

Pub. L. 86-149 required the amount of the deposit to be not less than an amount equal to the actual cost of the housing as certified reduced by the amount of the principal obligation of the mortgage outstanding at the time possession is surrendered, provided for determination of amount of deposit in cases where cost has not been certified, and required payment of 4 percent interest where money has been withdrawn in excess of final award of just compensation.

1958—Subsec. (c). Pub. L. 85-685 inserted provisions authorizing issue of just compensation to be determined by a commission of three qualified, disinterested persons to be appointed by the court, prescribing its powers, relating to its action and report, and requiring trial of all issues, other than just compensation, to be by the court.

1957—Subsec. (a). Pub. L. 85-104 substituted “representing the estimated cost of repairs and replacements necessary to restore the property to sound physical condition” for “for physical depreciation”.

1956—Act Aug. 7, 1956, designated existing provisions as subsecs. (a), (c), and (d), and added subsecs. (b) and (e) to (h).

Act Aug. 3, 1956, limited purchase price of housing to Commissioner’s estimate of replacement cost of such housing and related property as of date of final endorsement for mortgage insurance reduced by an appropriate allowance for depreciation, and limited price of any project held by Commissioner to face value of debentures, plus accrued interest, which the Commissioner issued in acquiring the project.

#### REPEALS

Pub. L. 87-554, title V, §501(d), July 27, 1962, 76 Stat. 237, cited as a credit to this section, was repealed by Pub. L. 97-214, §7(5), July 12, 1982, 96 Stat. 173.

#### §§ 1594a-1, 1594a-2. Repealed. Pub. L. 97-214, §7(5), July 12, 1982, 96 Stat. 173

Section 1594a-1, Pub. L. 87-554, title V, §501(a)-(c), July 27, 1962, 76 Stat. 236; Pub. L. 90-110, title VI, §606, Oct. 21, 1967, 81 Stat. 304; Pub. L. 91-142, title V, §511, Dec. 5, 1969, 83 Stat. 312; Pub. L. 96-418, title V, §511, Oct. 10, 1980, 94 Stat. 1767, related to Department of Defense family housing management account. See section 2831 of Title 10, Armed Forces.

Section 1594a-2, Pub. L. 87-554, title V, §507, July 27, 1962, 76 Stat. 240, related to prior legislative approval for appropriations for family housing. See section 2821(a) of Title 10.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, and applicable to military construction projects, and to construction and acquisition of military family housing before, on, or after such date, see section 12(a) of Pub. L. 97-214, set out as an Effective Date note under section 2801 of Title 10, Armed Forces.

#### § 1594b. Maintenance and operation of housing; use of quarters; payment of principal, interest, and other obligations

The Secretary of Defense or his designee is authorized to maintain and operate any housing acquired under this title and assign quarters therein to military and civilian personnel and their dependents. Appropriations for quarters allowances or appropriate allotments, and rental charges to civilian personnel, may be utilized by the military department concerned for the payment of principal, interest, and other obligations, except those of maintenance and operation, of the mortgage corporation with respect

to such housing projects. Such payments shall not exceed an average of \$90 a month per housing unit and total payments for all housing so acquired shall not exceed \$21,000,000 per month: *Provided*, That, in case of the United States Coast Guard, total payments for all housing so acquired shall not exceed \$90,000 per month.

(Aug. 11, 1955, ch. 783, title IV, §405, 69 Stat. 652; Aug. 7, 1956, ch. 1029, title V, §508, 70 Stat. 1110.)

#### REFERENCES IN TEXT

This title, referred to in text, means title IV of act Aug. 11, 1955, ch. 783, 69 Stat. 646, as amended, which enacted sections 1594 and 1594a, 1594b to 1594f of this title, amended sections 1720, 1748, and 1748a to 1748g of Title 12, Banks and Banking, and enacted provisions set out as a note under section 1748 of Title 12. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

1956—Act Aug. 7, 1956, substituted “\$21,000,000” for “\$9,000,000”.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 1594c. Services of architects and engineers; use of appropriations; acquisition of sites

Whenever the Secretary of Defense or his designee determines that it is desirable in order to effectuate the purposes of this title, the Secretary is authorized, without regard to the civil service and classification laws, to procure, by negotiation or otherwise, the services of architects and engineers, or organizations thereof, under such arrangements as he deems desirable, but at an expense not in excess of that permissible under the schedule of fees allowed from time to time by the Secretary of Housing and Urban Development in connection with projects assisted under the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.]. Such services may include the development of plans, drawings and specifications for family housing under this title and other services in connection therewith: *Provided*, That such plans, drawings, and specifications may include the use of any project to be constructed under this subchapter of alternate materials or alternate types of construction, including prefabrication, that provide substantially equal value and conform to standards established by the Secretary of Housing and Urban Development: *Provided further*, That such plans, drawings, and specifications, when developed pursuant to arrangements made under this section after August 7, 1956, shall follow the principle of modular measure, in order that the housing may be built by conventional construction, on-site fabrication, factory precutting, factory fabrication, or any combination of these construction methods: *Provided further*, That the Secretary of Defense may designate certain sites or parts thereof for family housing to be furnished from prefabricated houses or housing