

and Local Boards were effective Oct. 1, 1991, and section 1520 of the Act (enacting section 420 of this title) was applicable to the estate of each resident of the Armed Forces Retirement Home who dies after Nov. 29, 1989, was repealed by Pub. L. 107-107, div. A, title XIV, § 1410(b)(3), Dec. 28, 2001, 115 Stat. 1266.

#### SHORT TITLE

Pub. L. 101-510, div. A, title XV, § 1501(a), formerly § 1501, Nov. 5, 1990, 104 Stat. 1722, as renumbered by Pub. L. 107-107, div. A, title XIV, § 1410(c)(1), Dec. 28, 2001, 115 Stat. 1266, provided that: "This title [enacting this chapter, amending section 6a of this title, sections 1089, 2575, 2772, 4624, 4712, 9624, and 9712 of Title 10, Armed Forces, section 1321 of Title 31, Money and Finance, section 1007 of Title 37, Pay and Allowances of the Uniformed Services, and section 906 of Title 44, Public Printing and Documents, repealing sections 21a to 25, 41 to 43, 44b, 45 to 46b, 48 to 50, 54, and 59 of this title and sections 4713 and 9713 of Title 10, and enacting provisions set out as notes above and under section 2772 of Title 10] may be cited as the 'Armed Forces Retirement Home Act of 1991'."

#### 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.

#### SUBCHAPTER I—ESTABLISHMENT AND OPERATION OF RETIREMENT HOME

### § 411. Establishment of the Armed Forces Retirement Home

#### (a) Independent establishment

The Armed Forces Retirement Home is an independent establishment in the executive branch.

#### (b) Purpose

The purpose of the Retirement Home is to provide, through the Armed Forces Retirement Home—Washington and the Armed Forces Retirement Home—Gulfport, residences and related services for certain retired and former members of the Armed Forces.

#### (c) Facilities

(1) Each facility of the Retirement Home referred to in paragraph (2) is a separate establishment of the Retirement Home.

(2) The United States Soldiers' and Airmen's Home is hereby redesignated as the Armed Forces Retirement Home—Washington. The Naval Home is hereby redesignated as the Armed Forces Retirement Home—Gulfport.

#### (d) Operation

(1) The Chief Operating Officer of the Armed Forces Retirement Home is the head of the Retirement Home. The Chief Operating Officer is subject to the authority, direction, and control of the Secretary of Defense.

(2) Each facility of the Retirement Home shall be maintained as a separate establishment of the Retirement Home for administrative purposes and shall be under the authority, direction, and control of the Administrator of that facility. The Administrator of each facility of

the Retirement Home is subject to the authority, direction, and control of the Chief Operating Officer.

(3) The administration of the Retirement Home, including administration for the provision of health care and medical care for residents, shall remain under the control and administration of the Secretary of Defense.

#### (e) Property and facilities

(1) The Retirement Home shall include such property and facilities as may be acquired under paragraph (2) or accepted under section 415(f) of this title for inclusion in the Retirement Home.

(2) The Chief Operating Officer may acquire, for the benefit of the Retirement Home, property and facilities for inclusion in the Retirement Home. If the purchase price to acquire fee title to real property for inclusion in the Retirement Home is more than \$750,000, the Chief Operating Officer may acquire the real property only if the acquisition is specifically authorized by law.

(3) If the Chief Operating Officer determines that any property of the Retirement Home is excess to the needs of the Retirement Home, the Chief Operating Officer shall dispose of the property in accordance with subchapter III of chapter 5 of title 40 (40 U.S.C. 541 et seq.). The proceeds from the disposal of property under this paragraph shall be deposited in the Armed Forces Retirement Home Trust Fund.

#### (f) Department of Defense support

The Secretary of Defense may make available from the Department of Defense to the Retirement Home, on a nonreimbursable basis, administrative support and office services, legal and policy planning assistance, access to investigative facilities of the Inspector General of the Department of Defense and of the military departments, and any other support necessary to enable the Retirement Home to carry out its functions under this chapter.

#### (g) Accreditation

The Chief Operating Officer shall secure and maintain accreditation by a nationally recognized civilian accrediting organization for each aspect of each facility of the Retirement Home, including medical and dental care, pharmacy, independent living, and assisted living and nursing care.

#### (h) Annual report

The Secretary of Defense shall transmit to Congress an annual report on the financial and other affairs of the Retirement Home for each fiscal year. The annual report shall include an assessment of all aspects of each facility of the Retirement Home, including the quality of care at the facility.

#### (i) Authority to lease non-excess property

(1) Subject to the approval of the Secretary of Defense, whenever the Chief Operating Officer of the Armed Forces Retirement Home considers it advantageous to the Retirement Home, the Chief Operating Officer may lease to such lessee and upon such terms as the Chief Operating Officer considers will promote the purpose and financial stability of the Retirement Home or be in the public interest, real or personal property that is—

(A) under the control of the Retirement Home; and

(B) not excess property (as defined by section 102 of title 40) subject to disposal under subsection (e)(3).

(2) A lease under this subsection—

(A) may not be for more than five years, unless the Chief Operating Officer determines that a lease for a longer period will promote the purpose and financial stability of the Retirement Home or be in the public interest;

(B) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;

(C) shall permit the Chief Operating Officer to revoke the lease at any time, unless the Chief Operating Officer determines that the omission of such a provision will promote the purpose and financial stability of the Retirement Home or be in the public interest;

(D) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Chief Operating Officer;

(E) may provide, notwithstanding section 1302 of title 40 or any other provision of law, for the alteration, repair, or improvement, by the lessee, of the property leased as the payment of part or all of the consideration for the lease; and

(F) may not provide for a leaseback by the Retirement Home with an annual payment in excess of \$100,000, or otherwise commit the Retirement Home or the Department of Defense to annual payments in excess of such amount.

(3) In addition to any in-kind consideration accepted under subparagraph (D) or (E) of paragraph (2), in-kind consideration accepted with respect to a lease under this subsection may include the following:

(A) Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities of the Retirement Home.

(B) Construction of new facilities for the Retirement Home.

(C) Provision of facilities for use by the Retirement Home.

(D) Facilities operation support for the Retirement Home.

(E) Provision of such other services relating to activities that will occur on the leased property as the Chief Operating Officer considers appropriate.

(4) In-kind consideration under paragraph (3) may be accepted at any property or facilities of the Retirement Home that are selected for that purpose by the Chief Operating Officer.

(5) In the case of a lease for which all or part of the consideration proposed to be accepted under this subsection is in-kind consideration with a value in excess of \$500,000, the Chief Operating Officer may not enter into the lease until at least 30 days after the date on which a report on the facts of the lease is submitted to Congress. This paragraph does not apply to a lease covered by paragraph (6).

(6)(A) If a proposed lease under this subsection involves only personal property, the lease term

exceeds one year, or the fair market value of the lease interest exceeds \$100,000, as determined by the Chief Operating Officer, the Chief Operating Officer shall use competitive procedures to select the lessee unless the Chief Operating Officer determines that—

(i) a public interest will be served as a result of the lease; and

(ii) the use of competitive procedures for the selection of certain lessees is unobtainable or not compatible with the public benefit served under clause (i).

(B) Not later than 45 days before entering into a lease described in subparagraph (A), the Chief Operating Officer shall submit to Congress written notice describing the terms of the proposed lease and—

(i) the competitive procedures used to select the lessee; or

(ii) in the case of a lease involving the public benefit exception authorized by subparagraph (A)(ii), a description of the public benefit to be served by the lease.

(7) The proceeds from the lease of property under this subsection shall be deposited in the Armed Forces Retirement Home Trust Fund.

(8) The interest of a lessee of property leased under this subsection may be taxed by State or local governments. A lease under this subsection shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an Act of Congress, the lease shall be renegotiated.

(Pub. L. 101–510, div. A, title XV, § 1511, Nov. 5, 1990, 104 Stat. 1723; Pub. L. 103–160, div. A, title III, § 366(a), Nov. 30, 1993, 107 Stat. 1630; Pub. L. 107–107, div. A, title XIV, § 1403, Dec. 28, 2001, 115 Stat. 1258; Pub. L. 110–181, div. A, title XIV, § 1422(a), (b), Jan. 28, 2008, 122 Stat. 420; Pub. L. 111–84, div. B, title XXVIII, § 2823, Oct. 28, 2009, 123 Stat. 2666; Pub. L. 111–383, div. B, title XXVIII, § 2813(b), Jan. 7, 2011, 124 Stat. 4463; Pub. L. 112–81, div. A, title V, §§ 561, 564(b)(1), Dec. 31, 2011, 125 Stat. 1420, 1424; Pub. L. 112–239, div. A, title X, § 1076(j), Jan. 2, 2013, 126 Stat. 1955; Pub. L. 115–91, div. B, title XXVIII, § 2873, Dec. 12, 2017, 131 Stat. 1870.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (f), was in the original “this title”, meaning title XV of Pub. L. 101–510, div. A, Nov. 5, 1990, 104 Stat. 1722, which is classified principally to this chapter. For complete classification of title XV to the Code, see Short Title note set out under section 401 of this title and Tables.

#### AMENDMENTS

2017—Subsec. (e)(2). Pub. L. 115–91, § 2873(a)(1), substituted “Chief Operating Officer may acquire,” for “Secretary of Defense may acquire,” and “Chief Operating Officer may acquire” for “Secretary may acquire”.

Subsec. (e)(3). Pub. L. 115–91, § 2873(a)(2), substituted “Chief Operating Officer determines” for “Secretary of Defense determines” and “Chief Operating Officer shall dispose” for “Secretary shall dispose”.

Subsec. (i)(1). Pub. L. 115–91, § 2873(b)(1), in introductory provisions, substituted “Subject to the approval of the Secretary of Defense, whenever” for “Whenever”, “Chief Operating Officer may” for “Secretary of Defense (acting on behalf of the Chief Operating Officer) may”, and “Chief Operating Officer considers” for “Secretary considers”.

Subsec. (i)(5). Pub. L. 115-91, §2873(b)(2), substituted “the Chief Operating Officer may not enter into the lease” for “the Secretary of Defense may not enter into the lease on behalf of the Chief Operating Officer”.

Subsec. (i)(6)(A). Pub. L. 115-91, §2873(b)(3), substituted “Chief Operating Officer shall” for “Secretary of Defense shall” in introductory provisions.

2013—Subsec. (d)(3). Pub. L. 112-239 struck out first par. (3) which read as follows: “The administration of the Retirement Home (including administration for the provision of health care and medical care for residents) shall remain under the direct authority, control, and administration of the Secretary of Defense.”

2011—Subsec. (d)(2). Pub. L. 112-81, §564(b)(1), substituted “Administrator” for “Director” in two places.

Subsec. (d)(3). Pub. L. 112-81, §561, added second par. (3).

Subsec. (i)(2)(F). Pub. L. 111-383 added subpar. (F).

2009—Subsec. (e)(2). Pub. L. 111-84, §2823(a), inserted at end “If the purchase price to acquire fee title to real property for inclusion in the Retirement Home is more than \$750,000, the Secretary may acquire the real property only if the acquisition is specifically authorized by law.”

Subsec. (e)(3). Pub. L. 111-84, §2823(b)(1), added par. (3) and struck out former par. (3) which read as follows: “The Secretary of Defense may dispose of any property of the Retirement Home, by sale, lease, or otherwise, that the Secretary determines is excess to the needs of the Retirement Home. The proceeds from such a disposal of property shall be deposited in the Armed Forces Retirement Home Trust Fund. No such disposal of real property shall be effective earlier than 120 days after the date on which the Secretary transmits a notification of the proposed disposal to the Committees on Armed Services of the Senate and the House of Representatives.”

Subsec. (i). Pub. L. 111-84, §2823(b)(2), added subsec. (i).

2008—Subsec. (d)(3). Pub. L. 110-181, §1422(a)(1), added par. (3).

Subsec. (g). Pub. L. 110-181, §1422(b), amended subsec. (g) generally. Prior to amendment, text read as follows: “The Chief Operating Officer shall endeavor to secure for each facility of the Retirement Home accreditation by a nationally recognized civilian accrediting organization, such as the Continuing Care Accreditation Commission and the Joint Commission for Accreditation of Health Organizations.”

Subsec. (h). Pub. L. 110-181, §1422(a)(2), inserted at end “The annual report shall include an assessment of all aspects of each facility of the Retirement Home, including the quality of care at the facility.”

2001—Pub. L. 107-107 reenacted section catchline without change and amended text generally, substituting present provisions for provisions relating to inclusion of existing homes in the Armed Forces Retirement Home in subsec. (a), the purpose of the Retirement Home in subsec. (b), its operation in subsec. (c), its property and facilities in subsec. (d), the requirement that the Secretary of Defense make available certain support services for the Home in subsec. (e), and its accreditation in subsec. (f).

1993—Subsecs. (e), (f). Pub. L. 103-160 added subsec. (e) and redesignated former subsec. (e) as (f).

#### EFFECTIVE DATE

Section effective one year after Nov. 5, 1990, see section 1541(a) of Pub. L. 101-510, formerly set out as a note under section 401 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (h) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of Title 10, Armed Forces.

## § 412. Residents of Retirement Home

### (a) Persons eligible to be residents

Except as provided in subsection (b), the following persons who served as members of the Armed Forces, at least one-half of whose service was not active commissioned service (other than as a warrant officer or limited-duty officer), are eligible to become residents of the Retirement Home:

(1) Persons who—

(A) are 60 years of age or over; and

(B) were discharged or released from service in the Armed Forces under honorable conditions after 20 or more years of active service.

(2) Persons who are determined under rules prescribed by the Chief Operating Officer to be incapable of earning a livelihood because of a service-connected disability incurred in the line of duty in the Armed Forces.

(3) Persons who—

(A) served in a war theater during a time of war declared by Congress or were eligible for hostile fire special pay under section 310 or 351 of title 37;

(B) were discharged or released from service in the Armed Forces under honorable conditions; and

(C) are determined under rules prescribed by the Chief Operating Officer to be incapable of earning a livelihood because of injuries, disease, or disability.

(4) Persons who—

(A) served in a women’s component of the Armed Forces before June 12, 1948; and

(B) are determined under rules prescribed by the Chief Operating Officer to be eligible for admission because of compelling personal circumstances.

### (b) Persons ineligible to be residents

A person described in subsection (a) who has been convicted of a felony or is not free of drug, alcohol, or psychiatric problems shall be ineligible to become a resident of the Retirement Home.

### (c) Acceptance

To apply for acceptance as a resident of a facility of the Retirement Home, a person eligible to be a resident shall submit to the Administrator of that facility an application in such form and containing such information as the Chief Operating Officer may require.

### (d) Priorities for acceptance

The Chief Operating Officer shall establish a system of priorities for the acceptance of residents so that the most deserving applicants will be accepted whenever the number of eligible applicants is greater than the Retirement Home can accommodate.

(Pub. L. 101-510, div. A, title XV, §1512, Nov. 5, 1990, 104 Stat. 1724; Pub. L. 107-107, div. A, title XIV, §§1404(b)(1)(A), 1405(a), 1410(b)(1), Dec. 28, 2001, 115 Stat. 1260, 1261, 1266; Pub. L. 112-81, div. A, title V, §§564(b)(1), 567(c)(6), Dec. 31, 2011, 125 Stat. 1424, 1426; Pub. L. 114-328, div. A, title VI, §618(f), Dec. 23, 2016, 130 Stat. 2160.)