

(Added Pub. L. 97-214, §2(a), July 12, 1982, 96 Stat. 163; amended Pub. L. 101-189, div. B, title XXVIII, §2831(a), Nov. 29, 1989, 103 Stat. 1660; Pub. L. 104-106, div. A, title XV, §1502(a)(26), Feb. 10, 1996, 110 Stat. 506; Pub. L. 107-107, div. A, title X, §1048(e)(11), Dec. 28, 2001, 115 Stat. 1228.)

AMENDMENTS

2001—Pub. L. 107-107 struck out “(a)” before “The Secretary of Defense” and struck out subsec. (b) which read as follows:

“(b)(1) Subject to paragraph (2) and notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a)—

“(A) the Secretary of Defense may transfer not more than \$31,000,000 from the Department of Defense Base Closure Account, established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2627), to the fund established pursuant to subsection (d) of such section 1013 for use as part of such fund; and

“(B) any funds so transferred shall be available for obligation and expenditure for the same purposes that funds appropriated to such fund are available, except that such funds may not be obligated after September 30, 1991.

“(2) Amounts may be transferred under paragraph (1) only after the date on which the appropriate committees of Congress receive from the Secretary written notice of, and justification for, the transfer.”

1996—Subsec. (b)(2). Pub. L. 104-106 substituted “appropriate committees of Congress” for “Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives”.

1989—Pub. L. 101-189 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-189, div. B, title XXVIII, §2831(b), Nov. 29, 1989, 103 Stat. 1660, provided that: “The amendments made by subsection (a) [amending this section] shall apply only to funds appropriated or transferred to, or otherwise deposited in, the Department of Defense Base Closure Account for, or during, fiscal years beginning after September 30, 1989.”

EFFECTIVE DATE

For effective date and applicability of section, see section 12(a) of Pub. L. 97-214, set out as a note under section 2801 of this title.

§ 2833. Family housing support

Amounts authorized by law for support of military family housing include amounts for—

- (1) operating expenses;
- (2) leasing expenses;
- (3) maintenance of real property expenses;
- (4) payments of principal and interest on mortgage debts incurred; and
- (5) payments of mortgage insurance premiums authorized under section 222¹ of the National Housing Act (12 U.S.C. 1715m).

(Added Pub. L. 99-167, title VIII, §804(b)(1), Dec. 3, 1985, 99 Stat. 987.)

REFERENCES IN TEXT

Section 222 of the National Housing Act (12 U.S.C. 1715m), referred to in par. (5), was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

¹ See References in Text note below.

§ 2834. Participation in Department of State housing pools

(a) The Secretary concerned may enter into an agreement with the Secretary of State under which the Secretary of State agrees to provide housing and related services for personnel under the jurisdiction of the Secretary concerned who are assigned to duty in a foreign country if the Secretary concerned determines—

(1) that there is a shortage of adequate housing in the area of the foreign country in which such personnel are assigned to duty; and

(2) that participation in the Department of State housing pool is the most cost-effective means of providing housing for such personnel.

The Secretary concerned shall reimburse the Secretary of State, as provided in the agreement, for housing and related services furnished personnel under the jurisdiction of the Secretary concerned.

(b) The maximum lease amounts specified in section 2828(e)(1) of this title for the rental of family housing in foreign countries shall not apply to housing made available to the Department of Defense under this section. To the extent that the lease amount for units of housing made available under this subsection exceeds such maximum lease amounts, such units shall not be counted in applying the limitation contained in such section on the number of units of family housing for which the Secretary concerned may waive such maximum lease amounts.

(Added Pub. L. 99-167, title VIII, §808(a), Dec. 3, 1985, 99 Stat. 989; amended Pub. L. 101-510, div. A, title XIII, §1301(18), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 103-160, div. B, title XXVIII, §2806, Nov. 30, 1993, 107 Stat. 1887.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103-160 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In computing the number of leases for which the maximum lease amount may be waived by the Secretary concerned under the second sentence of section 2828(e)(1) of this title, housing made available to the Department of Defense under this section shall be included.”

1990—Subsecs. (b), (c). Pub. L. 101-510 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “Agreements entered into with the Secretary of State under this section may not be executed until (1) the Secretary concerned provides to the appropriate committees of Congress written notification of the facts concerning the proposed agreement, and (2) a period of 21 days has elapsed after the day on which the notification is received by the committees.”

§ 2835. Long-term leasing of military family housing to be constructed

(a) BUILD AND LEASE AUTHORIZED.—Subject to subsection (b), the Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may enter into a contract for the lease of family housing units to be constructed or rehabilitated to residential use near a military installation within the United States under the Secretary’s jurisdiction at which there is a shortage of family housing. Housing units leased under this sec-

tion shall be assigned, without rental charge, as family housing to members of the armed forces who are eligible for assignment to military family housing.

(b) **SUBMISSION AND AUTHORIZATION OF PROPOSED LEASE CONTRACTS.**—(1) The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard, may enter into a lease contract under subsection (a) for such military housing as is authorized by law for the purposes of this section.

(2) The budget material submitted to Congress by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, in connection with the budget submitted pursuant to section 1105 of title 31 for each fiscal year shall include materials that identify the military housing projects for which lease contracts are proposed to be entered into under subsection (a) in such fiscal year.

(c) **COMPETITIVE PROCESS.**—Each contract under subsection (a) shall be awarded through the use of publicly advertised, competitively bid, or competitively negotiated, contracting procedures as provided in chapter 137 of this title. In accordance with such procedures, the Secretary of a military department, or the Secretary of Homeland Security, as the case may be, shall solicit bids or proposals for a contract for the lease of military housing authorized in accordance with subsection (b)(1). Such a contract may provide for the contractor of the housing facilities to operate and maintain such housing facilities during the term of the lease.

(d) **CONDITIONS ON OBLIGATION OF FUNDS.**—A lease contract entered into for a military housing project under subsection (a) shall include the following provisions:

(1) A statement that the obligation of the United States to make payments under the contract in any fiscal year is subject to appropriations being provided specifically for that fiscal year and specifically for that project.

(2) A commitment to obligate the necessary amount for each fiscal year covered by the contract when and to the extent that funds are appropriated for that project for that fiscal year.

(3) A statement that such a commitment entered into under the authority of this section does not constitute an obligation of the United States.

(4) A requirement that housing units constructed pursuant to the contract shall be constructed—

(A) to Department of Defense specifications, in the case of a Department of Defense contract; and

(B) to Department of Homeland Security specifications, in the case of a contract for the Coast Guard.

(e) **LEASE TERM.**—A contract under this section may be for any period not in excess of 20 years (excluding the period required for construction of the housing facilities).

(f) **RIGHT OF FIRST REFUSAL TO ACQUIRE.**—A contract under this section shall provide that, upon the termination of the lease period, the United States shall have the right of first refusal to acquire all right, title, and interest to the housing facilities constructed and leased under the contract.

(g) **NOTICE AND WAIT REQUIREMENTS.**—A contract may be entered into for the lease of housing facilities under this section only after the end of the 14-day period beginning on the date on which the Secretary of Defense, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress an economic analysis (based upon accepted life cycle costing procedures) which demonstrates that the proposed contract is cost-effective when compared with alternative means of furnishing the same housing facilities.

(h) **SUPPORT BUILDINGS.**—A contract for the lease of family housing under this section may include provision for the lease of a child care center, civic center building, and similar type buildings constructed for the support of family housing.

(Added Pub. L. 102-190, div. B, title XXVIII, § 2806(a)(1), Dec. 5, 1991, 105 Stat. 1539; amended Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 111-383, div. B, title XXVIII, § 2803(e), Jan. 7, 2011, 124 Stat. 4459; Pub. L. 112-239, div. A, title X, § 1076(f)(35), Jan. 2, 2013, 126 Stat. 1954; Pub. L. 115-91, div. B, title XXVIII, § 2801(b)(5), Dec. 12, 2017, 131 Stat. 1843.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in subsec. (g) of section 2828 of this title, prior to repeal by Pub. L. 102-190, § 2806(b)(1).

AMENDMENTS

2017—Subsec. (g). Pub. L. 115-91 added subsec. (g) and struck out former subsec. (g) which set out written notice and wait requirements.

2013—Subsec. (a), (g)(1). Pub. L. 112-239 inserted “when it is not operating as a service in the Navy” after “Coast Guard”.

2011—Subsec. (g)(2). Pub. L. 111-383 struck out “calendar” after “21” and inserted before period at end “or, if earlier, a period of 14 days has elapsed from the date on which a copy of the analysis is provided in an electronic medium pursuant to section 480 of this title”.

2002—Subsecs. (a) to (c), (d)(4)(B), (g)(1). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation” wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section applicable with respect to contracts entered into under this section on or after Dec. 5, 1991, see section 2806(c) of Pub. L. 102-190, set out as an Effective Date of 1991 Amendment note under section 2828 of this title.

§ 2835a. Use of military family housing constructed under build and lease authority to house other members

(a) **INDIVIDUAL ASSIGNMENT OF MEMBERS WITHOUT DEPENDENTS.**—(1) To the extent that the Secretary concerned determines that military family housing constructed and leased under section 2835 of this title is not needed to house members of the armed forces eligible for assign-