

(Added Pub. L. 104-106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 550; amended Pub. L. 108-136, div. B, title XXVIII, §2807, Nov. 24, 2003, 117 Stat. 1722; Pub. L. 108-375, div. B, title XXVIII, §2806, Oct. 28, 2004, 118 Stat. 2122; Pub. L. 109-163, div. B, title XXVIII, §2806(c), Jan. 6, 2006, 119 Stat. 3507; Pub. L. 110-417, div. B, title XXVIII, §2805(b), (f), Oct. 14, 2008, 122 Stat. 4723, 4724; Pub. L. 111-383, div. A, title X, §1075(h)(6), div. B, title XXVIII, §2803(g), Jan. 7, 2011, 124 Stat. 4377, 4459; Pub. L. 112-239, div. B, title XXVIII, §2803(b), Jan. 2, 2013, 126 Stat. 2148; Pub. L. 113-66, div. B, title XXVIII, §2806, Dec. 26, 2013, 127 Stat. 1008; Pub. L. 113-291, div. A, title X, §1071(f)(26), Dec. 19, 2014, 128 Stat. 3511; Pub. L. 115-91, div. B, title XXVIII, §2801(d)(3), Dec. 12, 2017, 131 Stat. 1844; Pub. L. 116-92, div. B, title XXX, §3016(d), Dec. 20, 2019, 133 Stat. 1929; Pub. L. 116-283, div. B, title XXVIII, §§2803(c), 2811(h), Jan. 1, 2021, 134 Stat. 4320, 4326.)

#### AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 116-283, §2803(c)(1)(A), substituted “The Secretary concerned” for “The Secretary of Defense” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 116-283, §2803(c)(1)(B), inserted “or agreement” after “each contract” and struck out “that the Secretary proposes to solicit” after “unaccompanied housing units”.

Subsec. (a)(2). Pub. L. 116-283, §2803(c)(2), substituted “A report required by paragraph (1)” for “For each proposed contract, conveyance, or lease described in paragraph (1), the report required by such paragraph” in introductory provisions and inserted “agreement,” after “contract,” wherever appearing.

Subsec. (a)(3). Pub. L. 116-283, §2803(c)(3), inserted “or agreement” after “contract” wherever appearing.

Subsec. (c)(10). Pub. L. 116-283, §2811(h), amended par. (10) generally. Prior to amendment, par. (10) read as follows: “An assessment of the dispute resolution process, which shall include a specific analysis of each denied tenant request to withhold rent payments and each instance in which the dispute resolution process resulted in a favorable outcome for the landlord.”

2019—Subsec. (c)(7) to (14). Pub. L. 116-92 added pars. (7) to (14).

2017—Subsec. (a)(4). Pub. L. 115-91 added par. (4) and struck out former par. (4) which read as follows: “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.”

2014—Subsec. (c). Pub. L. 113-291 substituted “an evaluation” for “on evaluation” in introductory provisions.

2013—Subsecs. (b), (c). Pub. L. 112-239 added subsecs. (b) and (c) and struck out former subsec. (b) which required the Secretary of Defense to provide annual reports to Congress.

Subsec. (c)(3). Pub. L. 113-66 inserted “, to specifically include any unique variances associated with litigation costs” before period at end.

2011—Subsec. (a)(4). Pub. L. 111-383, §2803(g), 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”.

Subsec. (b)(1). Pub. L. 111-383, §1075(h)(6), made technical correction to directory language of Pub. L. 109-163, §2806(c)(2)(A). See 2006 Amendment note below.

2008—Subsec. (b)(7). Pub. L. 110-417, §2805(b), added par. (7).

Subsec. (b)(8). Pub. L. 110-417, §2805(f), added par. (8).

2006—Subsec. (a)(2)(D). Pub. L. 109-163, §2806(c)(1), inserted before period “, including a description of the specific construction, acquisition, or improvement

projects from which funds were transferred to the Funds established under section 2883 of this title in order to finance the contract, conveyance, or lease”.

Subsec. (b)(1). Pub. L. 109-163, §2806(c)(2)(B), (C), substituted “covering each of the Funds” for “covering the Funds” and inserted before period at end “, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year”.

Pub. L. 109-163, §2806(c)(2)(A), as amended by Pub. L. 111-383, §1075(h)(6), substituted “A separate report” for “A report”.

2004—Subsec. (a)(2). Pub. L. 108-375, §2806(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “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.”

Subsec. (b)(5), (6). Pub. L. 108-375, §2806(b), added par. (5) and redesignated former par. (5) as (6).

2003—Subsec. (a)(2) to (4). Pub. L. 108-136, §2807(a), designated second sentence of par. (2) as par. (4) and added par. (3).

Subsec. (b)(2). Pub. L. 108-136, §2807(b)(1), inserted before period at end “, and such recommendations as the Secretary considers necessary for improving the extent and effectiveness of the use of such authorities in the future”.

Subsec. (b)(3) to (5). Pub. L. 108-136, §2807(b)(2), added pars. (3) to (5) and struck out former par. (3) which read as follows: “A description of the objectives of the Department of Defense for providing military family housing and military unaccompanied housing for members of the armed forces.”

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title X, §1075(h), Jan. 7, 2011, 124 Stat. 4377, provided that amendment by section 1075(h)(6) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109-163 as enacted.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (b) and (c) of this section requiring submittal of reports to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### FINAL REPORT

Pub. L. 104-106, div. B, title XXVIII, §2801(b), Feb. 10, 1996, 110 Stat. 551, provided that, not later than Mar. 1, 2000, the Secretary of Defense was to submit to the congressional defense committees a report on the use by the Secretary of Defense and the Secretaries of the military departments of the authorities provided by subchapter IV of chapter 169 of this title.

### § 2885. Oversight and accountability for privatization projects

(a) OVERSIGHT AND ACCOUNTABILITY MEASURES.—Each Secretary concerned shall prescribe regulations to effectively oversee and manage military housing privatization projects carried out under this subchapter during the course of the construction or renovation of the housing units. The regulations shall include the following requirements for each privatization project:

(1) The installation asset manager shall conduct monthly site visits and provide quarterly reports on the progress of the construction or

renovation of the housing units. The reports shall be submitted quarterly to the assistant secretary for installations and environment of the respective military department.

(2) The installation asset manager, and, as applicable, the resident construction manager, privatization asset manager, bondholder representative, project owner, developer, general contractor, and construction consultant for the project shall conduct meetings to ensure that the construction or renovation of the units meets performance and schedule requirements and that appropriate operating and ground lease agreements are in place and adhered to.

(3) In the case of a project for new construction, if the project is 90 days or more behind schedule or otherwise appears to be substantially failing to adhere to the obligations or milestones under the contract, the assistant secretary for installations and environment of the respective military department shall submit a notice of deficiency to the Assistant Secretary of Defense for Energy, Installations, and Environment, the Secretary concerned, the managing member, and the trustee for the project.

(4)(A) Not later than 15 days after the submittal of a notice of deficiency under paragraph (3), the Secretary concerned or designated representative shall submit to the project owner, developer, or general contractor responsible for the project a summary of deficiencies related to the project.

(B) If the project owner, developer, or general contractor responsible for the privatization project is unable, within 60 days after receiving a notice of deficiency under subparagraph (A), to make progress on the issues outlined in such notice, the Secretary concerned shall notify, in an electronic medium pursuant to section 480 of this title, the congressional defense committees of the status of the project and include a recommended course of action to correct the problems.

(b) **REQUIRED QUALIFICATIONS.**—The Secretary concerned or designated representative shall ensure that the project owner, developer, or general contractor that is selected for each military housing privatization initiative project has construction experience commensurate with that required to complete the project.

(c) **BONDING LEVELS.**—The Secretary concerned shall ensure that the project owner, developer, or general contractor responsible for a military housing privatization initiative project has sufficient payment and performance bonds or suitable instruments in place for each phase of a construction or renovation portion of the project to ensure successful completion of the work in amounts as agreed to in the project's legal documents, but in no case less than 50 percent of the total value of the active phases of the project, prior to the commencement of work for that phase.

(d) **REPORTING OF EFFORTS TO SELECT SUCCESSOR IN EVENT OF DEFAULT.**—In the event a military housing privatization initiative project enters into default, the assistant secretary for installations and environment of the respective military department shall submit, in an elec-

tronic medium pursuant to section 480 of this title, a report to the congressional defense committees every 90 days detailing the status of negotiations to award the project to a new project owner, developer, or general contractor.

(e) **EFFECT OF NOTICES OF DEFICIENCY ON CONTRACTORS AND AFFILIATED ENTITIES.**—(1) The Secretary concerned shall keep a record of all plans of action or notices of deficiency issued to a project owner, developer, or general contractor under subsection (a)(4), including the identity of each parent, subsidiary, affiliate, or other controlling entity of such owner, developer, or contractor.

(2) Each military department shall consult all records maintained under paragraph (1) when reviewing the past performance of owners, developers, and contractors in the bidding process for a contract or other agreement for a military housing privatization initiative project.

(f) **FINANCIAL INTEGRITY AND ACCOUNTABILITY MEASURES.**—(1) The regulations required by subsection (a) shall address the following requirements for each military housing privatization project upon the completion of the construction or renovation of the housing units:

(A) The financial health and performance of the privatization project, including the debt-coverage ratio of the project and occupancy rates for the housing units.

(B) An assessment of the backlog of maintenance and repair of the housing units.

(2) If the debt service coverage for a military housing privatization project falls below 1.0 or the occupancy rates for the housing units of the project are below 75 percent for more than one year, the Secretary concerned shall require the development of a plan to address the financial risk of the project.

(Added Pub. L. 110-417, div. B, title XXVIII, §2805(a)(1), Oct. 14, 2008, 122 Stat. 4721; amended Pub. L. 112-239, div. B, title XXVIII, §2803(a), Jan. 2, 2013, 126 Stat. 2147; Pub. L. 113-66, div. A, title X, §1084(a)(3), Dec. 26, 2013, 127 Stat. 871; Pub. L. 113-291, div. A, title IX, §901(n)(2), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115-91, div. B, title XXVIII, §2801(d)(4), Dec. 12, 2017, 131 Stat. 1844.)

#### PRIOR PROVISIONS

A prior section 2885, added Pub. L. 104-106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 551; amended Pub. L. 105-85, div. A, title X, §1073(a)(61), Nov. 18, 1997, 111 Stat. 1903; Pub. L. 106-398, §1 [div. B, title XXVIII, §2806], Oct. 30, 2000, 114 Stat. 1654, 1654A-415; Pub. L. 107-107, div. B, title XXVIII, §2805, Dec. 28, 2001, 115 Stat. 1306, related to expiration of authority to enter into a contract under this subchapter, prior to repeal by Pub. L. 108-375, div. B, title XXVIII, §2805(b)(1), Oct. 28, 2004, 118 Stat. 2122.

#### AMENDMENTS

2017—Subsec. (a)(4)(B). Pub. L. 115-91, §2801(d)(4)(A), inserted “, in an electronic medium pursuant to section 480 of this title,” after “notify” and substituted “and include” for “, and shall provide”.

Subsec. (d). Pub. L. 115-91, §2801(d)(4)(B), inserted “, in an electronic medium pursuant to section 480 of this title,” after “submit”.

2013—Subsec. (a). Pub. L. 112-239, §2803(a)(2), in introductory provisions, inserted “during the course of the construction or renovation of the housing units” before period at end of first sentence.

Subsec. (a)(3). Pub. L. 113-66 substituted “In the case of a project for new construction, if the project” for “If a project”.

Subsec. (f). Pub. L. 112-239, §2803(a)(1), added subsec. (f).

#### CHANGE OF NAME

“Assistant Secretary of Defense for Energy, Installations, and Environment” substituted for “Deputy Under Secretary of Defense (Installations and Environment)” in subsec. (a)(3) on authority of section 901(n)(2) of Pub. L. 113-291, set out as a References note under section 131 of this title.

#### [§ 2886. Repealed. Pub. L. 116-92, div. B, title XXX, § 3014(d)(1), Dec. 20, 2019, 133 Stat. 1926]

Section, added Pub. L. 115-91, div. A, title VI, §602(a), Dec. 12, 2017, 131 Stat. 1417, prohibited collection of amounts in addition to rent from members assigned to military family housing units or military unaccompanied housing units. See section 2891a(e) of this title.

#### SUBCHAPTER V—OVERSIGHT OF LANDLORDS AND PROTECTIONS AND RESPONSIBILITIES FOR TENANTS OF PRIVATIZED MILITARY HOUSING

Sec.	
2890.	Rights and responsibilities of tenants of housing units.
[2890a.	Renumbered.]
2891.	Requirements relating to contracts for provision of housing units.
2891a.	Requirements relating to management of housing units.
2891b.	Considerations of eligible entity housing history in contracts for privatized military housing.
2891c.	Transparency regarding finances and performance metrics.
2892.	Maintenance work order system for housing units.
2892a.	Access by tenants to historical maintenance information.
2892b.	Prohibition on requirement to disclose personally identifiable information in requests for certain maintenance.
2893.	Treatment of incentive fees for landlords of housing units for failure to remedy health or environmental hazards.
2894.	Landlord-tenant dispute resolution process and treatment of certain payments during process.
2894a.	Complaint database.

#### AMENDMENTS

2021—Pub. L. 116-283, div. B, title XXVIII, §§ 2811(k)(1)(B), (2), 2814(d)(2), Jan. 1, 2021, 134 Stat. 4326, 4328, added items 2891c and 2892b and struck out former items 2890a “Chief Housing Officer”, 2891c “Financial transparency”, and 2892b “Prohibition on requirement to disclose personally identifiable information in electronic requests for maintenance”.

#### § 2890. Rights and responsibilities of tenants of housing units

(a) DEVELOPMENT OF TENANT BILL OF RIGHTS AND TENANT RESPONSIBILITIES DOCUMENTS.—(1) The Secretary of Defense shall develop two separate documents, to be known as the Military Housing Privatization Initiative Tenant Bill of Rights and the Military Housing Privatization Initiative Tenant Responsibilities, for tenants of housing units.

(2) The Secretary of each military department shall ensure that the housing documents are at-

tached to each lease agreement for a housing unit.

(3) The rights and responsibilities contained in the housing documents are not intended to be exclusive. The omission of a tenant right or responsibility shall not be construed to deny the existence of such a right or responsibility for tenants.

(4) Each contract between the Secretary concerned and a landlord shall incorporate the housing documents and guarantee the rights and responsibilities of tenants who reside in housing units covered by the contract.

(5) The Secretary of Defense shall develop the housing documents in coordination with the Secretaries of the military departments.

(b) ELEMENTS OF TENANT BILL OF RIGHTS.—At a minimum, the Military Housing Privatization Initiative Tenant Bill of Rights shall address the following rights of tenants of housing units:

(1) The right to reside in a housing unit and community that meets applicable health and environmental standards.

(2) The right to reside in a housing unit that has working fixtures, appliances, and utilities and to reside in a community with well-maintained common areas and amenity spaces.

(3) The right to be provided with a maintenance history of the prospective housing unit before signing a lease, as provided in section 2892a of this title.

(4) The right to a written lease with clearly defined rental terms to establish tenancy in a housing unit, including any addendums and other regulations imposed by the landlord regarding occupancy of the housing unit and use of common areas.

(5) The right to a plain-language briefing, before signing a lease and 30 days after move-in, by the installation housing office on all rights and responsibilities associated with tenancy of the housing unit, including information regarding the existence of any additional fees authorized by the lease, any utilities payments, the procedures for submitting and tracking work orders, the identity of the military tenant advocate, and the dispute resolution process.

(6) The right to have sufficient time and opportunity to prepare and be present for move-in and move-out inspections, including an opportunity to obtain and complete necessary paperwork.

(7) The right to report inadequate housing standards or deficits in habitability of the housing unit to the landlord, the chain of command, and housing management office without fear of reprisal or retaliation, as provided in subsection (e), including reprisal or retaliation in the following forms:

(A) Unlawful recovery of, or attempt to recover, possession of the housing unit.

(B) Unlawfully increasing the rent, decreasing services, or increasing the obligations of a tenant.

(C) Interference with a tenant’s right to privacy.

(D) Harassment of a tenant.

(E) Refusal to honor the terms of the lease.

(F) Interference with the career of a tenant.