

**§ 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.)

**Editorial Notes**

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”.

**Statutory Notes and Related Subsidiaries**

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.

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

(d) USE OF AMOUNTS IN FUNDS.—(1)(A) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Family Housing Improvement Fund to carry out activities under this subchapter with respect to military family housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter. The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.

(B) The Secretary of Defense shall require that eligible entities receiving amounts from the Department of Defense Family Housing Improvement Fund prioritize the use of such amounts for expenditures related to asset recapitalization, operating expenses, and debt payments before other program management-incentive fee expenditures. In the case of asset recapitalization, the primary purpose of the expenditures must be to sustain existing housing units owned or managed by the eligible entity or for which the eligible entity is otherwise responsible.

(2) In such amounts as provided in appropriation Acts and except as provided in subsection (e), the Secretary of Defense may use amounts in the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under this subchapter with respect to military unaccompanied housing, including activities required in connection with the planning, execution, and administration of contracts entered into under the authority of this subchapter. The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.

(3) Amounts made available under this subsection shall remain available until expended. The Secretary of Defense may transfer amounts made available under this subsection to the Secretaries of the military departments to permit such Secretaries to carry out the activities for which such amounts may be used.

(e) LIMITATION ON OBLIGATIONS.—(1) The Secretary may not incur an obligation under a contract or other agreement entered into under this subchapter in excess of the unobligated balance, at the time the contract is entered into, of the Fund required to be used to satisfy the obligation.

(2) The Funds established under subsection (a) shall be the sole source of funds for activities carried out under this subchapter.

(f) NOTIFICATION REQUIRED FOR TRANSFERS.—A transfer of appropriated amounts to a Fund under subparagraph (B) of paragraph (1) or subparagraph (B) of paragraph (2) of subsection (c) may be made only after the end of the 14-day period beginning on the date the Secretary of Defense submits notice of, and justification for, the transfer to the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(Added Pub. L. 104-106, div. B, title XXVIII, §2801(a)(1), Feb. 10, 1996, 110 Stat. 548; amended Pub. L. 104-201, div. B, title XXVIII, §2804, Sept. 23, 1996, 110 Stat. 2788; Pub. L. 106-65, div. B, title XXVIII, §2802(b), Oct. 5, 1999, 113 Stat. 848; Pub. L. 108-136, div. A, title X, §1031(a)(51), div. B, title XXVIII, §2805(c), Nov. 24, 2003, 117 Stat. 1603, 1721; Pub. L. 108-375, div. B, title XXVIII, §2805(a), Oct. 28, 2004, 118 Stat. 2122; Pub. L. 109-163, div. B, title XXVIII, §2806(a), (b), Jan. 6, 2006, 119 Stat. 3507; Pub. L. 110-181, div. B, title XXVII, §2705, Jan. 28, 2008, 122 Stat. 533; Pub. L. 112-239, div. B, title XXVII, §2711(c)(5), Jan. 2, 2013, 126 Stat. 2144; Pub. L. 115-91, div. B, title XXVIII, §2801(d)(2), Dec. 12, 2017, 131 Stat. 1844; Pub. L. 116-283, div. B, title XXVIII, §2813(a), Jan. 1, 2021, 134 Stat. 4327.)

## Editorial Notes

### AMENDMENTS

2021—Subsec. (d)(1). Pub. L. 116-283 designated existing provisions as subpar. (A) and added subpar. (B).

2017—Subsec. (f). Pub. L. 115-91 substituted “14-day period” for “30-day period” and struck out “written” before “notice” and “or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided” before “in an electronic medium”.

2013—Subsec. (c)(1)(G). Pub. L. 112-239, §2711(c)(5)(A)(i), struck out subpar. (G), which read as follows: “Subject to subsection (f), any amounts that the Secretary of Defense transfers to that Fund from amounts in the Department of Defense Base Closure Account 2005.”

Subsec. (c)(2)(G). Pub. L. 112-239, §2711(c)(5)(A)(ii), struck out subpar. (G), which read as follows: “Subject to subsection (f), any amounts that the Secretary of Defense transfers to that Fund from amounts in the Department of Defense Base Closure Account 2005.”

Subsec. (f). Pub. L. 112-239, §2711(c)(5)(B), struck out “or (G)” after “subparagraph (B)” in two places in first sentence, and struck out second sentence which read: “In addition, the notice required in connection with a transfer under subparagraph (G) of paragraph (1) or subparagraph (G) of paragraph (2) shall include a certification that the amounts to be transferred from the Department of Defense Base Closure Account 2005 were specified in the conference report to accompany the most recent Military Construction Authorization Act.”

2008—Subsec. (c)(1)(G). Pub. L. 110-181, §2705(a)(1), added subpar. (G).

Subsec. (c)(2)(G). Pub. L. 110-181, §2705(a)(2), added subpar. (G).

Subsec. (f). Pub. L. 110-181, §2705(b), substituted “subparagraph (B) or (G) of paragraph (1) or subparagraph (B) or (G) of paragraph (2)” for “paragraph (1)(B) or (2)(B)” and inserted at end “In addition, the notice required in connection with a transfer under subparagraph (G) of paragraph (1) or subparagraph (G) of paragraph (2) shall include a certification that the amounts to be transferred from the Department of Defense Base Closure Account 2005 were specified in the conference report to accompany the most recent Military Construction Authorization Act.”

2006—Subsec. (c)(1)(B). Pub. L. 109-163, §2806(b), substituted “acquisition, improvement, or construction” for “acquisition or construction”.

Subsec. (e). Pub. L. 109-163, §2806(a), designated existing provisions as par. (1) and added par. (2).

2004—Subsec. (g). Pub. L. 108-375 struck out heading and text of subsec. (g). Text read as follows: “The total value in budget authority of all contracts and investments undertaken using the authorities provided in this subchapter shall not exceed—

“(1) \$850,000,000 for the acquisition or construction of military family housing; and

“(2) \$150,000,000 for the acquisition or construction of military unaccompanied housing.”

2003—Subsec. (c)(1)(F). Pub. L. 108-136, §2805(c)(1), added subpar. (F).

Subsec. (c)(2)(F). Pub. L. 108-136, §2805(c)(2), added subpar. (F).

Subsec. (f). Pub. L. 108-136, §1031(a)(51), inserted before period at end “or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title”.

1999—Subsec. (c)(1)(E). Pub. L. 106-65, §2802(b)(1), added subpar. (E).

Subsec. (c)(2)(E). Pub. L. 106-65, §2802(b)(2), added subpar. (E).

1996—Subsec. (d)(1), (2). Pub. L. 104-201 inserted at end “The Secretary may also use for expenses of activities required in connection with the planning, execution, and administration of such contracts funds that are otherwise available to the Department of Defense for such types of expenses.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. B, title XXVIII, §2813(b), Jan. 1, 2021, 134 Stat. 4327, provided that: “The requirements set forth in subparagraph (B) of section 2883(d)(1) of title 10, United States Code, as added by subsection (a), shall apply to appropriate legal documents entered into or renewed on or after the date of the enactment of this Act [Jan. 1, 2021] between the Secretary of a military department and a landlord regarding privatized military housing. In this subsection, the terms ‘landlord’ and ‘privatized military housing’ have the meanings given those terms in section 3001(a) of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116-92; 133 Stat. 1916; 10 U.S.C. 2821 note).”

##### EFFECTIVE DATE OF 2013 AMENDMENT

Amendment by Pub. L. 112-239 effective on the later of Oct. 1, 2013, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2014 (div. J of Pub. L. 113-76, approved Jan. 17, 2014), see section 2711(d) of Pub. L. 112-239, set out as a note under section 2701 of this title.

#### § 2883a. Funds for housing allowances of members of the armed forces assigned to certain military family housing units

(a) **AUTHORITY TO TRANSFER FUNDS TO COVER HOUSING ALLOWANCES.**—During the fiscal year in which a contract is awarded for the acquisition or construction of military family housing units under this subchapter that are not to be owned by the United States, the Secretary of Defense may transfer the amount determined under subsection (b) with respect to such housing from appropriations available for support of military housing for the armed force concerned for that fiscal year to appropriations available for pay and allowances of military personnel of that same armed force for that same fiscal year.

(b) **AMOUNT TRANSFERRED.**—The total amount authorized to be transferred under subsection (a) in connection with a contract under this subchapter may not exceed an amount equal to any additional amounts payable during the fiscal year in which the contract is awarded to members of the armed forces assigned to the acquired or constructed housing units as basic allowance for housing under section 403 of title 37 that would not otherwise have been payable to such members if not for assignment to such housing units.

(c) **TRANSFERS SUBJECT TO APPROPRIATIONS.**—The transfer of funds under the authority of subsection (a) is limited to such amounts as may be provided in advance in appropriations Acts.

(Added Pub. L. 107-107, div. B, title XXVIII, §2804(a), Dec. 28, 2001, 115 Stat. 1305.)

#### § 2884. Reports

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

(A) each contract or agreement for the acquisition or construction of family housing units or unaccompanied housing units under this subchapter; and

(B) each conveyance or lease proposed under section 2878 of this title.

(2) A report required by paragraph (1) shall include the following:

(A) A description of the contract, agreement, conveyance, or lease, including a summary of the terms of the contract, agreement, conveyance, or lease.

(B) A description of the authorities to be utilized in entering into the contract, agreement, conveyance, or lease and the intended method of participation of the United States in the contract, agreement, conveyance, or lease, including a justification of the intended method of participation.

(C) A statement of the scored cost of the contract, agreement, conveyance, or lease, as determined by the Office of Management and Budget.

(D) A statement of the United States funds required for the contract, agreement, conveyance, or lease and a description of the source of such funds, 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, agreement, conveyance, or lease.

(E) An economic assessment of the life cycle costs of the contract, agreement, conveyance, or lease, including an estimate of the amount of United States funds that would be paid over the life of the contract, agreement, conveyance, or lease from amounts derived from payments of government allowances, including the basic allowance for housing under section 403 of title 37, if the housing affected by the project were fully occupied by military personnel over the life of the contract, agreement, conveyance, or lease.

(3)(A) In the case of a contract or agreement described in paragraph (1) proposed to be entered into with a private party, the report shall specify whether the contract or agreement will or may include a guarantee (including the making of mortgage or rental payments) by the Secretary to the private party in the event of—

(i) the closure or realignment of the installation for which housing will be provided under the contract or agreement;

(ii) a reduction in force of units stationed at such installation; or

(iii) the extended deployment of units stationed at such installation.