

subchapter III (§12181 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

#### PRIOR PROVISIONS

A prior section 2891, added Pub. L. 100-456, div. A, title III, §342(a)(1), Sept. 29, 1988, 102 Stat. 1959; amended Pub. L. 102-484, div. A, title III, §372, Oct. 23, 1992, 106 Stat. 2384, required Secretary of Defense to submit to Congress for each of fiscal years 1992, 1993, and 1994, a report regarding security and control of Department of Defense supplies, prior to repeal by Pub. L. 104-106, div. A, title X, §1061(b)(1), Feb. 10, 1996, 110 Stat. 442.

#### AMENDMENTS

2021—Subsec. (e)(1). Pub. L. 116-283, §2811(c)(1)(A), inserted “unit” after “different housing” in introductory provisions.

Subsec. (e)(1)(B). Pub. L. 116-283, §2811(c)(1)(B), inserted “the” before “tenant”.

Subsec. (e)(2)(B). Pub. L. 116-283, §2811(c)(2), inserted “the” before “tenant”.

Subsecs. (g), (h). Pub. L. 117-81 added subsec. (g) and redesignated former subsec. (g) as (h).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116-92, div. B, title XXX, §3013(b), Dec. 20, 2019, 133 Stat. 1923, provided that: “The requirements set forth in section 2891 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 [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing.”

[For definitions of “landlord” and “privatized military housing” as used in section 3013(b) of Pub. L. 116-92, set out above, see section 3001(a) of Pub. L. 116-92, set out as a note under section 2821 of this title.]

##### RETROACTIVE LANDLORD AGREEMENTS

Pub. L. 116-92, div. B, title XXX, §3013(c), Dec. 20, 2019, 133 Stat. 1923, provided that:

“(1) IN GENERAL.—Not later than February 1, 2020, the Secretary of Defense shall seek agreement from all landlords to accept the application of the requirements set forth in section 2891 of title 10, United States Code, as added by subsection (a), to appropriate legal documents entered into or renewed before the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing [sic]

“(2) SUBMITTAL OF LIST TO CONGRESS.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of any landlords that did not agree under paragraph (1) to accept the requirements set forth in section 2891 of title 10, United States Code, as added by subsection (a).

“(3) CONSIDERATION OF LACK OF AGREEMENT IN FUTURE CONTRACTS.—The Secretary of Defense and the Secretaries of the military departments shall include any lack of agreement under paragraph (1) as past performance considered under section 2891b of title 10, United States Code, as added by section 3015, with respect to entering into or renewing any future contracts regarding privatized military housing.”

[For definitions of “landlord” and “privatized military housing” as used in section 3013(c) of Pub. L. 116-92, set out above, see section 3001(a) of Pub. L. 116-92, set out as a note under section 2821 of this title.]

#### § 2891a. Requirements relating to management of housing units

(a) IN GENERAL.—The Secretary of Defense shall ensure that each contract between the Sec-

retary concerned and a landlord regarding the management of housing units for an installation of the Department of Defense includes the requirements set forth in this section.

(b) REQUIREMENTS FOR INSTALLATION COMMANDERS.—(1) The installation commander shall be responsible for—

(A) reviewing, on an annual basis, the mold mitigation plan and pest control plan of each landlord managing housing units for the installation; and

(B) notifying the landlord and the major subordinate command of any deficiencies found in either plan.

(2) In response to a request by the head of the housing management office of an installation, the installation commander shall use the assigned bio-environmental personnel or contractor equivalent at the installation to test housing units for mold, unsafe water conditions, and other health and safety conditions.

(c) REQUIREMENTS FOR HOUSING MANAGEMENT OFFICE.—(1) The head of the housing management office of an installation shall be responsible for—

(A) conducting a physical inspection of, and approving the habitability of, a vacant housing unit for the installation before the landlord managing the housing unit is authorized to offer the housing unit available for occupancy;

(B) conducting a physical inspection of the housing unit upon tenant move-out; and

(C) maintaining all test results relating to the health, environmental, and safety condition of the housing unit and the results of any inspection conducted by the housing management office, landlord, or third-party contractor for the life of the contract relating to that housing unit.

(2) The head of the installation housing management office shall be provided a list of any move-out charges that a landlord seeks to collect from an outgoing tenant.

(3) The head of the installation housing management office shall initiate contact with a tenant regarding the satisfaction of the tenant with the housing unit of the tenant not later than—

(A) 15 days after move-in; and

(B) 60 days after move-in.

(d) REQUIREMENTS FOR LANDLORDS.—(1) The landlord providing a housing unit shall disclose to the Secretary of Defense any bonus structures offered for community managers and regional executives and any bonus structures relating to maintenance of housing units, in order to minimize the impact of those incentives on the operating budget of the installation for which the housing units are provided.

(2) With respect to test results relating to the health and safety condition of a housing unit, the landlord providing the housing unit shall—

(A) not later than three days after receiving the test results, share the results with the tenant of the housing unit and submit the results to the head of the installation housing management office; and

(B) include with any environmental hazard test results a simple guide explaining those results, preferably citing standards set forth by

the Federal Government relating to environmental hazards.

(3) Before a prospective tenant signs a lease to occupy a housing unit, the landlord providing the housing unit shall conduct a walkthrough inspection of the housing unit—

(A) for the prospective tenant; or

(B) if the prospective tenant is not able to be present for the inspection, with an official of the housing management office designated by the prospective tenant to conduct the inspection on the tenant's behalf.

(4) In the event that the installation housing management office determines that a housing unit does not meet minimum health, safety, and welfare standards set forth in Federal, State, and local law as a result of a walkthrough inspection or an inspection conducted under subsection (c), the landlord providing the housing unit shall remediate any issues and make any appropriate repairs to the satisfaction of the housing management office and subject to another inspection by the housing management office.

(5) A landlord providing a housing unit may not conduct any promotional events to encourage tenants to fill out maintenance comment cards or satisfaction surveys of any kind, without the approval of the chief of the housing management office.

(6) A landlord providing a housing unit may not award an installation of the Department of Defense or an officer or employee of the Department a "Partner of the Year award" or similar award.

(7) A landlord providing a housing unit may not enter into any form of settlement, nondisclosure, or release of liability agreement with a tenant without—

(A) first notifying the tenant of the tenant's right to assistance from the legal assistance office at the installation; and

(B) not later than five days before entering into such settlement, nondisclosure, or release of liability agreement, providing a copy of the agreement and terms to the Assistant Secretary of Defense for Sustainment.

(8) A landlord providing a housing unit may not change the position of a prospective tenant on a waiting list for a housing unit or remove a prospective tenant from the waiting list in response to the prospective tenant turning down an offer for a housing unit, if the housing unit is determined unsatisfactory by the prospective tenant and the determination is confirmed by the housing management office and the installation commander.

(9) A landlord providing a housing unit shall allow employees of the housing management office and other officers and employees of the Department to conduct—

(A) with the permission of the tenant of the housing unit as appropriate, physical inspections of the housing unit; and

(B) physical inspections of any common areas maintained by the landlord.

(10) A landlord providing a housing unit shall agree to participate in the dispute resolution and payment-withholding processes established pursuant to section 2894 of this title.

(11) Upon request by a prospective tenant, a landlord providing a housing unit shall ensure that the needs of enrollees in the Exceptional Family Member Program, or any successor program, are considered in assigning the prospective tenant to a housing unit provided by the landlord.

(12) A landlord providing a housing unit shall maintain an electronic work order system that enables access by the tenant to view work order history, status, and other relevant information, as required by section 2892 of this title.

(13) A landlord providing a housing unit shall agree to have any agreements or forms to be used by the landlord approved by the Assistant Secretary of Defense for Sustainment, including the following:

(A) A common lease agreement.

(B) Any disclosure or nondisclosure forms that could be given to a tenant.

(e) PROHIBITION AGAINST COLLECTION OF AMOUNTS IN ADDITION TO RENT.—(1) A landlord providing a housing unit may not impose on a tenant of the housing unit a supplemental payment, such as an out-of-pocket fee, in addition to the amount of rent the landlord charges for a unit of similar size and composition to the housing unit, without regard to whether or not the amount of the basic allowance for housing under section 403 of title 37 the tenant may receive as a member of the armed forces is less than the amount of the rent.

(2) Nothing in paragraph (1) shall be construed—

(A) to prohibit a landlord from imposing an additional payment—

(i) for optional services provided to military tenants, such as access to a gym or a parking space;

(ii) for non-essential utility services, as determined in accordance with regulations promulgated by the Secretary concerned; or

(iii) to recover damages associated with tenant negligence, consistent with subsection (c)(2); or

(B) to limit or otherwise affect the authority of the Secretary concerned to enter into rental guarantee agreements under section 2876 of this title or to make differential lease payments under section 2877 of this title, so long as such agreements or payments do not require a tenant to pay an out-of-pocket fee or payment in addition to the amount of any basic allowance for housing under section 403 of title 37 the tenant may receive as a member of the armed forces.

(3)(A) Costs incurred to reasonably modify or upgrade a housing unit to comply with standards addressing discrimination against an individual with a disability established pursuant to the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), or to meet the reasonable modification and accommodation requirements of section 804 of the Fair Housing Act (42 U.S.C. 3604) and in order to facilitate occupancy of a housing unit by an individual with a disability, may not be considered optional services under paragraph (2)(A)(i) or another exception to the prohibition in paragraph (1) against collection from tenants of housing units of amounts in addition to rent.

(B) In subparagraph (A), the term “disability” has the meaning given that term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(Added Pub. L. 116–92, div. B, title XXX, §3014(a), Dec. 20, 2019, 133 Stat. 1924; amended Pub. L. 116–283, div. B, title XXVIII, §2811(d), Jan. 1, 2021, 134 Stat. 4324; Pub. L. 117–81, div. A, title X, §1081(a)(31), div. B, title XXVIII, §2813(b)(1), Dec. 27, 2021, 135 Stat. 1921, 2192.)

### Editorial Notes

#### REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsec. (e)(3)(A), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

#### AMENDMENTS

2021—Subsec. (b)(2). Pub. L. 116–283, §2811(d)(1), inserted period at end.

Subsec. (d)(11). Pub. L. 116–283, §2811(d)(2), added par. (11) and struck out former par. (11) which read as follows: “A landlord providing a housing unit shall ensure that the needs of enrollees in the Exceptional Family Member Program, or any successor program, are considered in assigning prospective tenants to housing units provided by the landlord.”

Subsec. (e)(1). Pub. L. 117–81, §1081(a)(31), substituted “the basic allowance” for “the any basic allowance”.

Subsec. (e)(2)(B). Pub. L. 116–283, §2811(d)(3), substituted “any” for “the any”.

Subsec. (e)(3). Pub. L. 117–81, §2813(b)(1), added par. (3).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117–81, div. B, title XXVIII, §2813(b)(2), Dec. 27, 2021, 135 Stat. 2192, provided that: “Subsection (e)(3) of section 2891a of title 10, United States Code, as added by paragraph (1), shall apply to contracts described in subsection (a) of such section entered into on or after the date of the enactment of this Act [Dec. 27, 2021].”

#### EFFECTIVE DATE OF 2019 AMENDMENT

Pub. L. 116–92, div. B, title XXX, §3014(c), Dec. 20, 2019, 133 Stat. 1926, provided that: “The requirements set forth in section 2891a 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 [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing.”

[For definitions of “landlord” and “privatized military housing” as used in section 3014(c) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

#### MILITARY DEPARTMENT IMPLEMENTATION PLANS

Pub. L. 116–92, div. B, title XXX, §3014(b), Dec. 20, 2019, 133 Stat. 1926, provided that: “Not later than February 1, 2020, the Secretary of each military department shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for the implementation by that military department of section 2891a of title 10, United States Code, as added by subsection (a).”

#### RETROACTIVE LANDLORD AGREEMENTS

Pub. L. 116–92, div. B, title XXX, §3014(e), Dec. 20, 2019, 133 Stat. 1926, provided that:

“(1) IN GENERAL.—Not later than February 1, 2020, the Secretary of Defense shall seek agreement from all landlords to accept the application of the requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a), to appropriate legal documents entered into or renewed before the date of the enactment of this Act [Dec. 20, 2019] between the Secretary of a military department and a landlord regarding privatized military housing [sic]

“(2) SUBMITTAL OF LIST TO CONGRESS.—Not later than March 1, 2020, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a list of any landlords that did not agree under paragraph (1) to accept the requirements set forth in section 2891a of title 10, United States Code, as added by subsection (a).

“(3) CONSIDERATION OF LACK OF AGREEMENT IN FUTURE CONTRACTS.—The Secretary of Defense and the Secretaries of the military departments shall include any lack of agreement under paragraph (1) as past performance considered under section 2891b of title 10, United States Code, as added by section 3015, with respect to entering into or renewing any future contracts regarding privatized military housing.”

[For definitions of “landlord” and “privatized military housing” as used in section 3014(e) of Pub. L. 116–92, set out above, see section 3001(a) of Pub. L. 116–92, set out as a note under section 2821 of this title.]

### § 2891b. Considerations of eligible entity housing history in contracts for privatized military housing

(a) CONSIDERATION REQUIRED.—To assist in making a determination whether to enter into a new contract, or renew an existing contract, with an eligible entity, the Secretary of Defense shall develop a standard process by which the Secretary concerned may evaluate the past performance of the eligible entity for purposes of informing future decisions regarding the award of such a contract.

(b) ELEMENTS OF PROCESS.—The process developed under subsection (a) shall include, at a minimum, consideration of the following:

(1) Any history of the eligible entity of providing substandard housing.

(2) The recommendation of the commander of the installation for which housing units will be provided under the contract.

(3) The recommendation of the commander of any other installation for which the eligible entity has provided housing units.

(Added Pub. L. 116–92, div. B, title XXX, §3015, Dec. 20, 2019, 133 Stat. 1927.)

### § 2891c. Transparency regarding finances and performance metrics

(a) SUBMISSION OF LANDLORD FINANCIAL INFORMATION.—(1) Not less frequently than annually, the Secretary of Defense shall require that each landlord submit to the Secretary a report providing information regarding all housing units provided by the landlord.

(2) Information provided under paragraph (1) by a landlord shall include the following:

(A) A comprehensive summary of the landlord’s financial performance.

(B) The amount of base management fees relating to all housing units provided by the landlord.

(C) The amount of asset management fees relating to such housing units.