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TITLE 42. THE PUBLIC HEALTH AND WELFARE
CHAPTER 41. DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT
PROGRAM
MISCELLANEOUS PROVISIONS

42 USCS § 3374

§ 3374. Acquisition of property at or near military bases which have been ordered to be closed

(a) Authorization; conditions precedent. Notwithstanding any other provision of law, the Secretary of Defense is authorized to acquire title to, hold, manage, and dispose of, or, in lieu thereof, to reimburse for certain losses upon private sale of, or foreclosure against, any property improved with a one- or two-family dwelling which is situated at or near a military base or installation which the Department of Defense has, subsequent to November 1, 1964, ordered to be closed in whole or in part, if he determines--

(1) that the owner of such property is, or has been, a Federal employee employed at or in connection with such base or installation (other than a temporary employee serving under a time limitation), a nonappropriated fund instrumentality employee employed at a nonappropriated fund instrumentality operated in connection with such base or installation, or a member of the Armed Forces of the United States assigned thereto,

(2) that the closing of such base or installation, in whole or in part, has required or will require the termination of such owner's employment or service at or in connection with such base or installation or, in the case of a member of the Armed Forces not assigned to that base or installation at the time of public announcement of such closing, will prevent any reassignment of such member to the base or installation; and

(3) that as the result of the actual or pending closing of such base or installation, in whole or in part, or if as the result of such action and other similar action in the same area, there is no present market for the sale of such property upon reasonable terms and conditions.

(b) Eligibility for benefits; criteria.

(1) In order to be eligible for the benefits of this section, a civilian employee or a member of the Armed Forces--

(A) must be assigned to or employed at or in connection with the installation or activity at the time of public announcement of the closure action, or employed by a nonappropriated fund instrumentality operated in connection with such base or installation;

(B) must have been transferred from such installation or activity, or terminated as an employee as a result of a reduction in force, within six months prior to public announcement of the closure action; or

(C) must have been transferred from the installation or activity on an overseas tour within three years prior to public announcement of the closure action.

(2) A member of the Armed Forces shall also be eligible for the benefits of this section if the member--

(A) was transferred from the installation or activity within three years prior to

public announcement of the closure action; and

(B) in connection with the transfer, was informed of a future, programmed reassignment to the installation.

(3) The eligibility of a civilian employee and member of the Armed Forces under paragraph (1) and a member of the Armed Forces under paragraph (2) for benefits under this section in connection with the closure of an installation or activity is subject to the additional conditions set out in paragraphs (4) and (5).

(4) At the time of public announcement of the closure action, or at the time of transfer or termination as set forth above, such personnel or employees must--

(A) have been the owner-occupant of the dwelling, or

(B) have vacated the owned dwelling as a result of being ordered into on-post housing during a six-month period prior to the closure announcement.

(5) As a consequence of such closure such employees or personnel must--

(A) be required to relocate because of military transfer or acceptance of employment beyond a normal commuting distance from the dwelling for which compensation is sought, or

(B) be unemployed, not as a matter of personal choice, and able to demonstrate such financial hardship that they are unable to meet their mortgage payments and related expenses.

(c) Election of benefits; mortgage loan encumbrance; foreclosure expenses. Such persons as the Secretary of Defense may determine to be eligible under the criteria set forth above shall elect either (1) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between (A) 95 per centum of the fair market value of their property (as such value is determined by the Secretary of Defense) prior to public announcement of intention to close all or part of the military base or installation and (B) the fair market value of such property (as such value is so determined) at the time of the sale, or (2) to receive, as purchase price for their property, an amount not to exceed 90 per centum of prior fair market value as such value is determined by the Secretary of Defense, or the amount of the outstanding mortgages. The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount that the Secretary determines appropriate to reimburse the person for the costs incurred by the person in the sale of the property if the Secretary determines that such payment will benefit the person and is in the best interest of the Federal Government. Cash payment as compensation for losses sustained in a private sale shall not be made in any case in which the property is encumbered by a mortgage loan guaranteed, insured, or held by a Federal agency unless such mortgage loan is paid, assumed by a purchaser satisfactory to such Federal agency, or otherwise fully satisfied at or prior to the time such cash payment is made. Except in cases of payment as compensation for losses, in the event of foreclosure by mortgagees commenced on or after public announcement of intention to close all or part of the military base or installation the Secretary of Defense may reimburse or pay on account of eligible persons such sums as may be paid or be otherwise due and owing by such persons as the result of such foreclosure, including (without limiting the generality of the foregoing) direct costs of judicial foreclosure, expenses and liabilities enforceable according to the terms of their mortgages or promissory notes, and the amount of debts, if any, established against such persons by a Federal agency in the case of loans made, guaranteed, or insured by such agency following liquidation of the security for such loans.

(d) Fund for extension of financial assistance; capital and receipts; availability of monies; covering into Treasury as miscellaneous receipts; federal title to and control

of property; other laws unaffected; foreign properties, exclusion. There shall be in the Treasury a fund which shall be available to the Secretary of Defense for the purpose of extending the financial assistance provided above. The capital of such fund shall consist of such sums as may, from time to time, be appropriated thereto, and shall consist also of receipts from the management, rental, or sale of properties acquired under this section, which receipts shall be credited to the fund and shall be available, together with funds appropriated therefor, for purchase or reimbursement purposes as provided above, as well as to defray expenses arising in connection with the acquisition, management, and disposal of such properties, including payment of principal, interest, and expenses of mortgages or other indebtedness thereon, and including the cost of staff services and contract services, costs of insurance, and other indemnity. Any part of such receipts not required for such expenses shall be covered into the Treasury as miscellaneous receipts. Properties acquired under this section shall be conveyed to, and acquired in the name of, the United States. The Secretary of Defense shall have the power to deal with, rent, renovate, and dispose of, whether by sales for cash or credit or otherwise, any properties so acquired: *Provided, however,* That no contract for acquisition, or acquisition, shall be deemed to constitute a contract for or acquisition of family housing units in support of military installations or activities within the meaning of section 406(a) of the Act of August 30, 1957 (42 U.S.C. 1594j), nor shall it be deemed a transaction within the contemplation of section 2662 of title 10, United States Code: *Provided further,* That no properties in foreign countries shall be acquired under this section, except in connection with compensation for property located on a base or installation pursuant to subsection (l).

(e) Fund as source of payments to States in lieu of taxes; limitation on amount; allowance for public service expenditures. Payments from the fund created by this section may be made in lieu of taxes to any State or political subdivision thereof, with respect to real property, including improvements thereon, acquired and held under this section. The amount so paid for any year upon such property shall not exceed the taxes which would be paid to the State or subdivision, as the case may be, upon such property if it were not exempt from taxation, and shall reflect such allowance as may be considered appropriate for expenditures, if any, by the Government for streets, utilities, or other public services to serve such property.

(f) Title requirements; terms and conditions of payment; finality of decisions. The title to any property acquired under this section, the eligibility for, and the amounts of, cash payable, and the administration of the preceding provisions of this section, shall conform to such requirements, and shall be administered under such conditions and regulations, as the Secretary of Defense may prescribe. Such regulations shall also prescribe the terms and conditions under which payments may be made and instruments accepted under this section, and all the determinations and decisions made pursuant to such regulations by the Secretary of Defense regarding such payments and conveyances and the terms and conditions under which they are approved or disapproved, shall be final and conclusive and shall not be subject to judicial review.

(g) Agreements between executive departments; delegation of functions; finality of determinations; availability of Fund. The Secretary of Defense is authorized to enter into such agreement with the Secretary of Housing and Urban Development as may be appropriate for the purposes of economy and efficiency of administration of this section. Such agreement may provide authority to the Secretary of Housing and Urban Development and his designee to make any or all of the determinations and

take any or all of the actions which the Secretary of Defense is authorized to undertake pursuant to the preceding provisions of this section. Any such determinations shall be entitled to finality to the same extent as if made by the Secretary of Defense, and, in event the Secretaries of Defense and Housing and Urban Development so elect, the fund established pursuant to subsection (d) of this section shall be available to the Secretary of Housing and Urban Development to carry out the purposes thereof.

(h) [Omitted]

(i) Specific authorization for funds; expenditure of monies in Fund. No funds may be appropriated for the acquisition of any property under authority of this section unless such funds have been specifically authorized for such purpose in a military construction authorization act, and no moneys in the fund created pursuant to subsection (d) of this section may be expended for any purpose except as may be provided in appropriation Acts.

(j) [Omitted]

(k) Reduction of operations at military base or installation. The authority provided by this section to the Secretary of Defense shall also be available when the Department of Defense has ordered a reduction in the scope of operations at a military base or installation. All references in subsections (a), (b), (c), (n), and (o) of this section to "closures" or "closings" or words of similar effect shall be deemed to include the reduction in scope of operations at a base or installation.

(l) Foreign property losses. Notwithstanding the provisions of subsection (a)(2) and subsection (b)(5), Federal employees or military personnel employed at or near a military base or installation outside the United States who are otherwise eligible under the criteria as set forth above shall be entitled to compensation for losses arising (1) out of the sale of property, or (2) out of the inability to sell property located on a base or installation, incident to the owner's transfer, reassignment, or involuntary termination of employment, which results in his relocation. Such employees or military personnel whose property is located off a base or installation shall be entitled to compensation under subsection (c) for losses sustained in private sales. Such employees or personnel whose property is located on a base or installation, who sell or are unable to find a purchaser for such property, may surrender their interest in such property to the United States, and shall be entitled to compensation, notwithstanding lack of ownership of the land on which such property is located, in an amount equal to (A) 90 per centum of the sum of the present owner's purchase price of the dwelling and improvements, and all costs of ownership including interest on notes, utilities and services, maintenance and insurance, less (B) the total of all housing allowances received from the Government during ownership and occupancy of the dwelling, all rents collected, and the sale price, if any, received for the property, as determined by the Secretary of Defense: *Provided, however,* That the maximum compensation shall in no event exceed 90 per centum of the unamortized portion of the cost of the property, including improvements, at the time ownership is terminated, as reflected in the amortization schedule, if any, relating to such property. For the purpose of this subsection, the term "United States" means the several States and the District of Columbia.

(m) Eligibility for benefits as to closure actions announced after April 1, 1973; criteria. In addition to the coverage provided above, the benefits of this section shall

apply, as to closure actions in the several States and the District of Columbia announced after April 1, 1973, to otherwise eligible employees or personnel who are (1) employed or assigned either at or near the base or installation affected by the closure action, and (2) are required to relocate, due to transfer, reassignment or involuntary termination of employment, for reasons other than the closure action.

(n) Relocation assistance for Coast Guard personnel.

(1) Assistance under this section shall be provided by the Secretary of Defense with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987. Such assistance shall be provided under terms equivalent to those under which assistance is provided under this section for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

(2) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under this section made by the Secretary of Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall enter into an agreement under which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement.

(o) Relocation assistance for nonappropriated fund instrumentality and other civilian employees.

(1) Assistance under this section shall be provided by the Secretary of Defense with respect to nonappropriated fund instrumentality employees adversely affected by the closure of a base or installation ordered to be closed, in whole or in part, after December 31, 1988.

(2) Notwithstanding subsection (b), a civilian employee who is serving overseas and is entitled to reemployment by the Federal Government (including a nonappropriated fund instrumentality of the United States) at or in connection with a base or installation ordered to be closed, in whole or in part, shall be entitled to the benefits of this section to the same extent as an employee employed at or in connection with that base or installation.

(3) All payments to a nonappropriated fund instrumentality employee under this section shall be made from the funds available to the Secretary of Defense under subsection (d).

(4) For purposes of this section:

(A) The term "nonappropriated fund instrumentality employee" means a civilian employee who--

(i) is a citizen of the United States; and

(ii) is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Resale and Services Support Office, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

(B) The term "civilian employee" has the meaning given the term "employee" in section 2105(a) of title 5, United States Code.

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History:

(Nov. 3, 1966, P.L. 89-754, Title X, § 1013, 80 Stat. 1290-1292; Dec. 5, 1969, P.L. 91-142, Title VI, § 602, 83 Stat. 313; Oct. 26, 1970, P.L. 91-511, Title VI, § 612, 84 Stat. 1225; Oct. 25, 1972, P.L. 92-545, Title VI, § 601, 86 Stat. 1150; Nov. 29, 1973, P.L. 93-166, Title V, § 513(b), 87 Stat. 679; Sept. 28, 1988, P.L. 100-448, § 11, 102 Stat. 1842; Nov. 5, 1990, P.L. 101-510, Div A, Title III, Part C, § 331, 104 Stat. 1535; Dec. 5, 1991, P.L. 102-190, Div B, Title XXVIII, Part B, § 2823, 105 Stat. 1547; Oct. 23, 1992, P.L. 102-484, Div A, Title X, Subtitle F, § 1054(i), 106 Stat. 2503; Oct. 5, 1994, P.L. 103-337, Div B, Title XXVIII, Subtitle A, § 2805, 108 Stat. 3053.)