

Summary of FY20 NDAA conference agreement on MHPI Reform

Title XXX - Military Housing Privatization Reform

- Sec. 3001 - Establishes various definitions for terms like landlord, privatized military housing, and incentive fees.

Subtitle A – Addition of New Reform Subchapter

- Sec. 3011 - Requires DOD to develop a document to be known as the “Tenant Bill of Rights,” which would include but not be limited to minimum rights, such as homes that meet minimum health and environmental standards, the ability to report inadequate living standards to the military chain of command without fear of reprisal, and the ability to enter into a dispute resolution process for purposes of recouping basic allowance for housing.
- Sec. 3012 - Requires DOD to designate (from among current officials at DOD) a Chief Housing Officer who must be presidentially appointed and Senate-confirmed.
- Sec. 3013 - Allows DOD to prohibit any employee of the landlord who commits work order fraud from doing any further work and withhold all or part of any incentive fees. If the landlord is found by DOD to have failed to maintain safe and sanitary conditions for a housing unit, once reviewed and approved by DHA, the landlord shall reimburse DOD for the costs of any medical evaluations and treatment provided to a tenant determined to be caused by the conditions of such housing unit, as documented by a military medical professional serving in the military. DHA shall develop and publish uniform processes and procedures 180 days after NDAA enactment.
 - Requires the landlord to pay reasonable relocation costs and actual costs of living, including per diem, associated with temporary relocation of a tenant to new housing due to health or environmental hazards, when confirmed by the HMO.
 - Requires the landlord’s maintenance work order system to:
 - Be reliable and have the ability for a tenant to submit a work order through an internet portal and mobile application, with the ability to upload photos, communicate with maintenance personnel and rate the individual service calls.
 - Allow real-time access by DOD officials and only allow a work

order ticket to be closed once the tenant and head of HMO approve.

- Sec. 3014 - Requires DOD to ensure that all installation commanders annually review and approve mold and pest control plans of landlords and use appropriate personnel or contractors for health and safety hazards.
 - Requires HMOs to physically inspect and approve habitability of each vacant housing unit before a tenant moves in and out (including move out charges), to establish tenant contact 15 and 60 days after move-in, and maintain all test results related to health, environmental and safety conditions.
 - Requires landlords to disclose to DOD their bonus structures for community managers and regional executives, share health and safety test results with tenants no later than three days after receiving those results, include a guide explaining test results, and conduct a walkthrough with tenants (or HMO designated by the tenant, if tenant not available) prior to move-in.
 - Requires landlords to remediate any issues with a housing unit if it does not meet minimum health, safety and welfare standards during walkthrough prior to move-in and prohibits the landlord from conducting any promotional events to incentivize tenants to fill out satisfaction surveys without approval of the HMO.
 - Prohibits landlords from awarding a DOD “Partner of the Year” award or similar award and ensures employees of the HMO and DOD can inspect housing units.
 - Prohibits landlords from having tenants agree to any form of settlement, nondisclosure or release of liability without first notifying the tenant of their right to legal assistance and providing a copy to the ASD for Sustainment.
 - Prohibits landlords from changing the position of a prospective tenant on a waiting list for a housing unit to removing them from the list if the prospective tenant turns down an offer for a housing unit determined to be unsatisfactory by the tenant and confirmed by the HMO and installation commander.
 - Ensures landlords consider the needs of enrollees in the Exceptional Family Member Program, or any successor program, are considered in assigning housing units.
- Sec. 3015 - Requires DOD to consider any performance history of a landlord

providing substandard housing when deciding whether or not to enter into a new agreement or renew an existing agreement with that landlord, along with the recommendation of the installation commander.

- Sec. 3016 - Requires DOD to establish a database that makes available to the public complaints from residents related to privatized military housing units, together with the landlord's response to each such complaint, while ensuring the collected information exclude personally identifiable information. Increases transparency of the financial details of each real estate agreement with annual financial statements, and requires a report on denied requests to withhold payments of tenants.
- Sec. 3017 - Requires DOD to ensure each landlord provides access to the maintenance work order system to personnel of the housing management office (HMO) at each military installation, personnel of the installation and engineer command (or center) of the military departments, and other personnel DOD deems necessary.
- Sec. 3018 - Requires DOD to have an electronic work order system for all work orders for maintenance requests related to privatized housing units and to provide tenant access to such system to, at a minimum, track the status and progress of work orders.
- Sec. 3019 - Requires DOD to provide a prospective tenant (before moving in) all information regarding maintenance conducted, to include any renovations, in that housing unit for the previous seven years.
- Sec. 3020 - Prohibits landlords from requiring tenants to disclose personally identifiable information as defined by the Privacy Act of 1974 as a required part of any maintenance work order call.
- Sec. 3021 - Requires DOD to withhold incentive fees paid to a landlord if that landlord has demonstrated propensity for failing to remedy a health or environmental hazard at a housing unit.
- Sec. 3022 - Requires DOD to create and implement a standardized formal dispute resolution process across all military installations to ensure fair and prompt resolution of landlord-tenant disputes concerning maintenance and repairs, damage claims, rental payments, move-out charges and other claims

to withhold payments. Ensures tenants entering into such a process have access and assistance from a military housing advocate or military legal assistance attorney. Notably, the provision would authorize a military member to request from the commander that BAH be withheld and placed in escrow, and would authorize the withholding of such BAH, until the issue has been resolved.

- Sec. 3023 - Requires the Assistant Secretary of Defense for Sustainment to investigate all reports of reprisal against a member of the Armed Forces for reporting on issues related to military housing, including privatized housing.
- Sec. 3024 - Amends 10 U.S.C. 2882 to prohibit the use of non-disclosure agreements in connection with entering into, continuing or terminating a lease for a housing unit covered under MHPI.

Subtitle B – Other Amendatory Provisions

- Sec. 3031 - Amends 10 U.S.C. 2821 to require DOD to provide for the installation and maintenance of carbon monoxide detectors in each unit of military family housing.
- Sec. 3032 - As requested by DOD, amends 10 U.S.C. 2872a to add street sweeping and tree trimming and removal to the list of reimbursable services that may be furnished.
- Sec. 3033 - Requires DOD to withhold payment if a landlord is found to have engaged in a material breach of the agreement and rescind that agreement if the breach is not remedied in a timely manner.
- Sec. 3034 - Amends 10 U.S.C. 2979 to expand the requirements of window fall prevention devices from 24 inches to 42 inches in height from the ground.
- Sec. 3035 - Provides direct hire authority for the purpose of quickly hiring new civilian employees to fill vacancies in installation housing offices.
- Sec. 3036 - Repeals the requirement that DOD pay an additional 5 percent of the calculated Basic Allowance for Housing (BAH) to MHPI projects. Instead, the provision would designate 2.5 percent to all MHPI projects and 2.5 percent to MHPI projects as determined by DOD's chief housing officer,

based on financial solvency and urgent requirements that would improve the quality of those projects.

- Sec. 3037 - Technical correction to certain payments for lessors of MHPI.

Subtitle C – One-Time Reporting Requirements

- Sec. 3041 - Requires DOD to report on the manpower requirements and execution plan to staff military housing office and headquarters to fill gaps in oversight personnel.
- Sec. 3042 - Requires the Services to establish a military housing council to identify and resolve problems with privatized housing and to identify best practices.
- Sec. 3043 - Requires DOD to submit a plan to establish concurrent jurisdiction with local community law enforcement at locations with privatized housing that is not located on a DOD installation.
- Sec. 3044 - Requires the DOD Inspector General to conduct an annual review of DOD's oversight of MHPI at three randomly selected installations and publish the results.
- Sec. 3045 - Requires DOD to report not later than 90 days after enactment on the legal services available to servicemembers who have been harmed by a health or environmental hazard while living in military housing.

Subtitle D – Development of Housing Reform Standards and Processes

- Sec. 3051 - Requires DOD to establish and implement a uniform code of basic housing standards for safety, comfort and habitability for privatized housing by 2/1/21 and a plan to contract with home inspectors to conduct thorough inspections and assessments of structural integrity and habitability of each privatized housing unit.
- Sec. 3052 - Requires DOD to develop an assessment tool to identify and measure health and safety hazards in DOD housing, to include privatized housing, and provide a report to SASC/HASC.

- Sec. 3053 - Requires DOD to develop a process to identify, record and resolve environmental health hazards in DOD housing, to include privatized housing, and report back to SASC/HASC.
- Sec. 3054 - Requires DOD to establish a policy for lead-based paint inspection, require access for qualified inspection professionals to military installations, and report the number of houses inspected and the results of those inspections.
- Sec. 3055 - Requires DOD to report by 2/1/20 on a standard for common credentials to be used throughout DOD for all inspectors of health and environmental hazards at privatized military housing units.
- Sec. 3056 - Requires DOD to develop a uniform move-out checklist for tenants of privatized housing which must be validated by the housing management office and requires that all maintenance issues and work orders related to health and safety be reported to the installation commander.
- Sec. 3057 - Requires DOD to develop standard documentation, templates, universal leases and forms for privatized military housing.
- Sec. 3058 Requires DOD to ensure that every military installation use the same electronic satisfaction survey (with embedded privacy and security mechanisms) for all surveys relating to the customer service experience of MHPI housing residents.

Subtitle E – Other Housing Reform Matters

- Sec. 3061 - Requires DOD to submit a report identifying all installations that should be monitored for excessive levels of radon to ensure levels are below EPA guidelines.
- Sec. 3062 - Requires the Secretary of Defense to allow residents to anchor any furniture, television or large appliance to the wall of a unit for the purposes of preventing such item from tipping over without incurring penalty or obligation to repair the wall upon vacating the unit. And requires DOD to ensure that all freestanding furniture taller than 27 inches are securely anchored.
- Sec. 3063 - Suspends the Resident Energy Conservation Program (RECP)

until DOD can certify that 100 percent of military housing on installations is individually metered to a respective unit and accurately measures said unit's energy use. If DOD is unable to certify two years after enactment of the FY20 NDAA, RECP shall be terminated.

- Sec. 3064 - Directs the Army to carry out a pilot program to build and monitor the use of not fewer than five single family homes for members of the Army and their families, at a location determined by the Army, and using the All-American Abode design by the United States Military Academy.