

117TH CONGRESS  
1ST SESSION

# S. 2368

To amend title 10, United States Code, to improve the provision of military housing to members of the Armed Forces and their families through private entities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 15, 2021

Ms. WARREN (for herself, Ms. DUCKWORTH, Mr. BLUMENTHAL, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to improve the provision of military housing to members of the Armed Forces and their families through private entities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Housing Over-  
5 sight and Service Member Protection Act”.

1 **SEC. 2. IMPROVEMENT OF OVERSIGHT OF PRIVATIZED**  
2 **MILITARY HOUSING.**

3 (a) OVERSIGHT OF CONTRACTS AND HOUSING  
4 UNITS.—

5 (1) IN GENERAL.—Subchapter IV of chapter  
6 169 of title 10, United States Code, is amended by  
7 adding at the end the following new section:

8 **“§ 2885a. Oversight of contracts and housing units**

9 “(a) OVERSIGHT OF CONTRACTS.—(1) The Secretary  
10 of Defense shall establish formal written requirements and  
11 guidance for entering into and renewing contracts under  
12 this subchapter.

13 “(2) The Secretary—

14 “(A) shall rescind a contract under this sub-  
15 chapter if the other party to the contract, based on  
16 credible evidence, fails to cure a material breach of  
17 such contract committed by such party within 90  
18 days; and

19 “(B) shall not permit the other party to a con-  
20 tract rescinded under subparagraph (A) to enter into  
21 new contracts with the Secretary or undertake ex-  
22 pansions under existing contracts with the Sec-  
23 retary.

24 “(3) The Secretary of Defense, in coordination with  
25 the Secretary concerned, shall adopt a formal written con-  
26 tingency plan for the management of housing units in the

1 event that a contract relating to those housing units is  
2 rescinded under paragraph (2)(A).

3 “(b) HOUSING OFFICE EMPLOYEES.—The Secretary  
4 of Defense shall ensure that each housing office at a mili-  
5 tary installation consists only of employees of the military  
6 department concerned.

7 “(c) INSPECTIONS OF HOUSING UNITS.—(1) The  
8 Secretary of Defense shall—

9 “(A) provide for the conduct of regular building  
10 code and health inspections of housing units, con-  
11 sistent with industry standards, which shall include,  
12 at a minimum—

13 “(i) inspection before each tenant first oc-  
14 cupies a housing unit and again before the ten-  
15 ant moves out; and

16 “(ii) inspection during and after any new  
17 construction or renovation of a housing unit;

18 “(B) employ a sufficient number of independent  
19 housing inspectors with all appropriate State and  
20 local inspection certifications to conduct inspections  
21 under subparagraph (A) without notice to landlords;  
22 and

23 “(C) provide appropriate oversight to ensure  
24 that all maintenance for such housing units is com-

1       pleted in accordance with all applicable Federal,  
2       State, and local health and building codes.

3       “(2)(A) In providing for the conduct of inspections  
4 of housing units under paragraph (1)(A), the Secretary  
5 shall permit State and local housing inspectors to conduct  
6 inspections of such units without notice to landlords.

7       “(B) Not less frequently than annually, the Secretary  
8 shall notify State and local housing inspectors that they  
9 are permitted on a military installation to conduct inspec-  
10 tions under subparagraph (A).

11       “(3) In this subsection, the term ‘independent hous-  
12 ing inspector’ means a housing inspector that is not an  
13 employee of the landlord of the housing unit being in-  
14 spected, including any subsidiary of the landlord.”.

15               (2) CLERICAL AMENDMENT.—The table of sec-  
16 tions at the beginning of such subchapter is amend-  
17 ed by inserting after the item relating to section  
18 2885 the following new item:

“2885a. Oversight of contracts and housing units.”.

19       (b) TREATMENT OF HOUSING LAWS.—Section 2890  
20 of such title is amended by adding at the end the following  
21 new subsection:

22       “(g) TREATMENT OF HOUSING LAWS.—Notwith-  
23 standing any other provision of law, all Federal, State,  
24 and local housing protections that would otherwise apply  
25 to a tenant located in a jurisdiction surrounding a military

1 installation in the United States, including standards re-  
 2 lating to habitability and defenses to eviction, shall apply  
 3 to a tenant residing in a housing unit that is located on  
 4 a military installation.”.

5 (c) IMPROVEMENT OF FINANCIAL TRANSPARENCY.—  
 6 Section 2891c of such title is amended—

7 (1) in subsection (a)(2), by adding at the end  
 8 the following new subparagraph:

9 “(G) Financial statements equivalent to a 10–  
 10 K (or successor form) for—

11 “(i) the landlord; and

12 “(ii) each contract entered into between  
 13 the landlord and the Department of Defense  
 14 under this subchapter.”; and

15 (2) by adding at the end the following new sub-  
 16 section:

17 “(c) PUBLICATION OF FINANCIAL DETAILS.—(1)  
 18 Not less frequently than annually, the Secretary Defense  
 19 shall publish in the Federal Register the financial details  
 20 of each contract for the management of housing units.

21 “(2) Not later than 15 days after receiving financial  
 22 statements under subsection (a)(2)(G), the Secretary shall  
 23 publish on a publicly available website of the Department  
 24 of Defense those financial statements.”.

1 (d) APPROVAL OF COMPLETED WORK.—Section  
 2 2892 of such title is amended by adding at the end the  
 3 following new subsection:

4 “(d) APPROVAL OF COMPLETED WORK.—A landlord  
 5 of a housing unit may not indicate on the maintenance  
 6 work order system of the landlord that maintenance work  
 7 was completed until an independent inspector approves the  
 8 completion of the maintenance work in writing.”.

9 (e) SCREENING AND REGISTRY OF INDIVIDUALS  
 10 WITH HEALTH CONDITIONS RESULTING FROM UNSAFE  
 11 HOUSING UNITS.—

12 (1) IN GENERAL.—Subchapter V of chapter  
 13 169 of such title is amended by adding at the end  
 14 the following new section:

15 “§ 2895. Screening and registry of individuals with  
 16 health conditions resulting from unsafe  
 17 housing units

18 “(a) SCREENING.—(1) The Secretary of Defense, in  
 19 consultation with appropriate scientific agencies as deter-  
 20 mined by the Secretary, shall ensure that all military med-  
 21 ical treatment facilities screen eligible individuals for cov-  
 22 ered conditions.

23 “(2) The Secretary may establish procedures through  
 24 which screening under paragraph (1) may allow an eligible

1 individual to be included in the registry under subsection  
2 (b).

3 “(b) REGISTRY.—(1) The Secretary of Defense shall  
4 establish and maintain a registry of eligible individuals  
5 who have a covered condition.

6 “(2) The Secretary shall include any information in  
7 the registry under paragraph (1) that the Secretary deter-  
8 mines necessary to ascertain and monitor the health of  
9 eligible individuals and the connection between the health  
10 of such individuals and an unsafe housing unit.

11 “(3) The Secretary shall develop a public information  
12 campaign to inform eligible individuals about the registry  
13 under paragraph (1), including how to register and the  
14 benefits of registering.

15 “(c) DEFINITIONS.—In this section:

16 “(1) The term ‘covered condition’ means a med-  
17 ical condition that is determined by the Secretary of  
18 Defense to have resulted from residing in an unsafe  
19 housing unit.

20 “(2) The term ‘eligible individual’ means a  
21 member of the armed forces or a family member of  
22 a member of the armed forces who has resided in an  
23 unsafe housing unit.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-  
25 tions at the beginning of such subchapter is amend-

1 ed by inserting after the item relating to section  
 2 2894a the following new item:

“2895. Screening and registry of individuals with health conditions resulting from unsafe housing units.”.

3 **SEC. 3. PRESUMPTIONS OF SERVICE CONNECTION FOR ILL-**  
 4 **NESSES ASSOCIATED WITH RESIDING IN**  
 5 **PRIVATIZED MILITARY HOUSING.**

6 (a) IN GENERAL.—Subchapter II of chapter 11 of  
 7 title 38, United States Code, is amended by adding at the  
 8 end the following new section:

9 **“§ 1119. Presumptions of service connection for ill-**  
 10 **nesses associated with residing in**  
 11 **privatized military housing**

12 “(a) PRESUMPTION.—(1) For purposes of section  
 13 1110 of this title, and subject to section 1113 of this title,  
 14 each illness, if any, described in paragraph (2) shall be  
 15 considered to have been incurred in or aggravated by serv-  
 16 ice described in that paragraph, notwithstanding that  
 17 there is no record of evidence of such illness during the  
 18 period of such service.

19 “(2) An illness described in this paragraph is any di-  
 20 agnosed or undiagnosed illness that—

21 “(A) the Secretary determines, in consultation  
 22 with the Agency for Toxic Substances and Disease  
 23 Registry, in regulations prescribed under this section  
 24 to warrant a presumption of service connection by

1 reason of having a positive association with resi-  
2 dence in a privatized military housing unit while  
3 serving in the Armed Forces during a period deter-  
4 mined by the Secretary in consultation with the  
5 Agency for Toxic Substances and Disease Registry;  
6 and

7 “(B) becomes manifest within the period, if  
8 any, prescribed in such regulations in a veteran who  
9 resided in a privatized military housing unit during  
10 service in the Armed Forces.

11 “(3) For purposes of this subsection, a veteran who  
12 resided in a privatized military housing unit while serving  
13 in the Armed Forces during the period described in para-  
14 graph (2) and who has an illness described in such para-  
15 graph shall be presumed to have developed that illness by  
16 reason of such service unless there is conclusive evidence  
17 to establish that the veteran developed that illness through  
18 another means.

19 “(b) DETERMINATIONS RELATING TO DISEASES.—  
20 (1) Whenever the Secretary determines, in consultation  
21 with the Agency for Toxic Substances and Disease Reg-  
22 istry, on the basis of sound medical and scientific evidence,  
23 that a positive association exists between residence in a  
24 privatized military housing unit and the occurrence of a  
25 disease in humans, the Secretary shall prescribe regula-

1 tions providing that a presumption of service connection  
 2 is warranted for that disease for the purposes of this sec-  
 3 tion.

4 “(2) In making determinations for the purpose of this  
 5 subsection, the Secretary shall take into account all other  
 6 sound medical and scientific information and analyses  
 7 available to the Secretary. In evaluating any study for the  
 8 purpose of making such determinations, the Secretary  
 9 shall take into consideration whether the results are statis-  
 10 tically significant, are capable of replication, and with-  
 11 stand peer review.

12 “(3) An association under paragraph (1) shall be con-  
 13 sidered to be positive for the purposes of this section if  
 14 the credible evidence for the association is equal to or out-  
 15 weighs the credible evidence against the association.

16 “(c) REMOVAL OF DISEASES.—Whenever a disease is  
 17 removed from regulations prescribed under this section—

18 “(1) a veteran who was awarded compensation  
 19 for such disease on the basis of the presumption pro-  
 20 vided in subsection (a) before the effective date of  
 21 the removal shall continue to be entitled to receive  
 22 compensation on that basis; and

23 “(2) a survivor of a veteran who was awarded  
 24 dependency and indemnity compensation for the  
 25 death of a veteran resulting from such disease on

1 the basis of such presumption shall continue to be  
 2 entitled to receive dependency and indemnity com-  
 3 pensation on such basis.

4 “(d) PRIVATIZED MILITARY HOUSING UNIT DE-  
 5 FINED.—In this section, the term ‘privatized military  
 6 housing unit’ means a housing unit under subchapter IV  
 7 of chapter 169 of title 10.”.

8 (b) CLERICAL AMENDMENT.—The table of sections  
 9 at the beginning of such chapter is amended by inserting  
 10 after the item relating to section 1118 the following new  
 11 item:

“1119. Presumptions of service connection for illnesses associated with residing  
 in privatized military housing.”.

12 **SEC. 4. HOSPITAL CARE, MEDICAL SERVICES, AND NURS-**  
 13 **ING HOME CARE FOR FAMILY MEMBERS OF**  
 14 **VETERANS WHO RESIDED IN PRIVATIZED**  
 15 **MILITARY HOUSING.**

16 (a) IN GENERAL.—Subchapter VIII of chapter 17 of  
 17 title 38, United States Code, is amended by inserting after  
 18 section 1787 the following new section:

19 **“§ 1787A. Health care of family members of veterans**  
 20 **who resided in privatized military hous-**  
 21 **ing**

22 “(a) IN GENERAL.—A family member of a veteran  
 23 described in paragraph (3) of section 1119(a) of this title  
 24 who resided in a privatized military housing unit during

1 the period described in paragraph (2) of such section, or  
 2 who was in utero during such period while the mother of  
 3 such family member resided in such housing unit, shall  
 4 be eligible for hospital care, medical services, and nursing  
 5 home care furnished by the Secretary for any covered ill-  
 6 ness that is associated with residing in a privatized mili-  
 7 tary housing unit during such period.

8 “(b) DEFINITIONS.—In this section:

9 “(1) The term ‘covered illness’ means an illness  
 10 described in section 1119(a)(2) of this title.

11 “(2) The term ‘privatized military housing unit’  
 12 has the meaning given that term in section 1119(d)  
 13 of this title.”.

14 (b) CLERICAL AMENDMENT.—The table of sections  
 15 at the beginning of such chapter is amended by inserting  
 16 after the item relating to section 1787 the following new  
 17 item:

“1787A. Health care of family members of veterans who resided in privatized  
 military housing.”.

18 **SEC. 5. ETHICAL LIMITATIONS RELATING TO OWNERSHIP**  
 19 **OF PRIVATIZED MILITARY HOUSING ENTI-**  
 20 **TIES.**

21 (a) IN GENERAL.—Section 208 of title 18, United  
 22 States Code, is amended by adding at the end the fol-  
 23 lowing:

1       “(e)(1) In this subsection, the term ‘covered indi-  
2       vidual’ means an individual—

3               “(A) who—

4                       “(i) is serving as a Member of Congress  
5                       (as defined in section 2106 of title 5); and

6                       “(ii) serves on the Committee on Armed  
7                       Services of the Senate or the Committee on  
8                       Armed Services of the House of Representa-  
9                       tives;

10               “(B) who is an employee (as defined in section  
11       2105 of title 5) of the Department of Defense who  
12       is serving—

13                       “(i) in a Senior Executive Service position  
14                       (as defined in section 3132 of title 5);

15                       “(ii) in a position on the Executive Sched-  
16                       ule under subchapter II of chapter 53 of title  
17                       5; or

18                       “(iii) in any other position for which the  
19                       rate of compensation is at or above the min-  
20                       imum rate of compensation for a Senior Execu-  
21                       tive Service position in the Department of De-  
22                       fense; or

23               “(C) who is a member of the Armed Forces  
24       serving in a position for which the pay grade is at  
25       or above level O-7.

1       “(2) A covered individual may not own any interest  
 2 (other than as part of a widely-held investment fund de-  
 3 scribed in section 102(f)(8) of the Ethics in Government  
 4 Act of 1978 (5 U.S.C. App.)) in an entity that owns or  
 5 manages a housing unit under subchapter IV of chapter  
 6 169 of title 10.”.

7       (b) CIVIL ENFORCEMENT.—Section 216 of title 18,  
 8 United States Code, is amended—

9           (1) in subsection (a), by inserting “(which shall  
 10 not include a violation of subsection (e) of such sec-  
 11 tion 208)” after “208”;

12           (2) in subsection (b), in the first sentence, by  
 13 inserting “or a violation of section 208(e)” after  
 14 “209 of this title”; and

15           (3) in subsection (c)—

16               (A) in the first sentence, by inserting “or  
 17 a violation of section 208(e)” after “209 of this  
 18 title”; and

19               (B) in the second sentence, by inserting  
 20 “or violation” after “such an offense”.

1 **SEC. 6. CLARIFICATION OF PROHIBITION AGAINST COL-**  
 2 **LECTION FROM TENANTS OF PRIVATIZED**  
 3 **MILITARY HOUSING UNITS OF AMOUNTS IN**  
 4 **ADDITION TO RENT.**

5 Section 2891a(e) of title 10, United States Code, is  
 6 amended—

7 (1) by striking “the any” each place it appears  
 8 and inserting “any”; and

9 (2) by adding at the end the following new  
 10 paragraph:

11 “(3) Costs incurred to modify or upgrade a housing  
 12 unit to comply with standards under the Americans with  
 13 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and  
 14 facilitate occupancy of the housing unit by an individual  
 15 with a disability (as defined in section 3 of such Act (42  
 16 U.S.C. 12102)) may not be considered optional services  
 17 under paragraph (2)(A)(i) or another exception to the pro-  
 18 hibition in paragraph (1) against collection from tenants  
 19 of housing units of amounts in addition to rent.”.

20 **SEC. 7. MODIFICATION OF CONTRACTS.**

21 The Secretary of Defense may modify any contract  
 22 entered into under subchapter IV of chapter 169 of title  
 23 10, United States Code, for purposes of carrying out this  
 24 Act and the amendments made by this Act.

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