

116TH CONGRESS
1ST SESSION

S. 1229

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.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2019

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

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 PRIVATE MILI-**
 2 **TARY HOUSING.**

3 (a) IN GENERAL.—Subchapter IV of chapter 169 of
 4 title 10, United States Code, is amended by adding at the
 5 end the following new sections:

6 **“§ 2887. Oversight by Department of Defense of con-**
 7 **tracts and housing units**

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

12 “(2) In deciding whether to enter into or renew a con-
 13 tract with a landlord under this subchapter, the Secretary
 14 shall consider any history of the landlord of providing sub-
 15 standard housing.

16 “(3) The Secretary—

17 “(A) shall withhold amounts to be paid under
 18 a contract under this subchapter if the other party
 19 to the contract is found to have engaged in a mate-
 20 rial breach of the contract;

21 “(B) shall rescind a contract under this sub-
 22 chapter if the other party to the contract, based on
 23 credible evidence, fails to cure such breach within 90
 24 days; and

25 “(C) shall not permit the other party to a con-
 26 tract rescinded under subparagraph (B) to enter

1 into new contracts with the Secretary or undertake
2 expansions under existing contracts with the Sec-
3 retary.

4 “(4) The Secretary of Defense, in coordination with
5 the Secretary concerned, shall adopt a formal written con-
6 tingency plan for the management of housing units under
7 this subchapter in the event that a contract relating to
8 those housing units is rescinded under paragraph (3)(B).

9 “(b) STANDARDIZED LEASE AGREEMENTS.—The
10 Secretary of Defense shall include in any contract with
11 a landlord under this subchapter a requirement that the
12 landlord use a lease agreement that is standard through-
13 out the Department of Defense.

14 “(c) HOUSING OFFICE EMPLOYEES.—The Secretary
15 of Defense shall ensure that each housing office at a mili-
16 tary installation consists only of employees of the military
17 department concerned.

18 “(d) INSPECTIONS OF HOUSING UNITS.—(1) The
19 Secretary of Defense shall—

20 “(A) ensure that all housing units under this
21 subchapter are safe, clean, and adequate and meet
22 all Federal, state, and local laws and standards of
23 habitability;

24 “(B) provide for the conduct of regular building
25 code and health inspections of such housing units,

1 consistent with industry standards, which shall in-
2 clude, at minimum—

3 “(i) inspection before each tenant first oc-
4 cupies a housing unit and again before the ten-
5 ant moves out; and

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

8 “(C) employ a sufficient number of independent
9 housing inspectors with all appropriate State and
10 local inspection certifications to conduct no-notice
11 inspections under subparagraph (B); and

12 “(D) provide appropriate oversight to ensure
13 that all maintenance for such housing units is com-
14 pleted in accordance with all applicable Federal,
15 State, and local health and building codes.

16 “(2)(A) In providing for the conduct of inspections
17 of housing units under paragraph (1)(B), the Secretary
18 shall permit State and local housing inspectors to conduct
19 no-notice inspections of such units.

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

24 “(3) In this subsection, the term ‘independent hous-
25 ing inspector’ means a housing inspector that is not an

1 employee of an entity that owns or manages the housing
2 unit being inspected, including any subsidiary of that enti-
3 ty.

4 “(e) RESIDENT SURVEYS.—The Secretary of Defense
5 shall consult with the Secretary of each military depart-
6 ment, members of the Armed Forces and their representa-
7 tives, and stakeholders to develop an appropriate method-
8 ology to conduct independent surveys of residents of hous-
9 ing units under this subchapter that are standardized
10 across the military departments.

11 “(f) ACCESS TO MAINTENANCE WORK ORDER SYS-
12 TEM.—The Secretary of Defense shall require each land-
13 lord to provide to the housing office at each military in-
14 stallation access to the maintenance work order system of
15 such landlord with respect to housing units for members
16 of the Armed Forces and family members of members of
17 the Armed Forces stationed at such installation.

18 **“§ 2888. Tenant rights**

19 “(a) CLAIM TO WITHHOLD PAYMENTS.—(1) A mem-
20 ber of the Armed Forces or family member of a member
21 of the Armed Forces who is a tenant of a housing unit
22 under this subchapter may file a claim with the housing
23 office of the military installation at which the member is
24 stationed requesting to withhold any basic allowance for
25 housing payable to the member (including for any depend-

ents of the member in the member’s household) under section 403 of title 37, or any other allotment of pay under section 2882(c) of this title, for lease of the unit during the period in which—

“(A) the landlord responsible for such housing unit has not met maintenance guidelines and procedures established by the landlord or the Department of Defense, either through contract or otherwise; or

“(B) such housing unit is uninhabitable according to State and local law for the jurisdiction in which the housing unit is located.

“(2)(A) Upon the filing of a claim by a tenant under paragraph (1)—

“(i) under such procedures as the Secretary of Defense shall establish, the Defense Finance and Accounting Service (DFAS) or such other appropriate office or offices of the Department of Defense as the Secretary shall specify for purposes of such procedures, shall tentatively grant the request; and

“(ii) the housing office that receives the claim shall, not later than 15 days after the date of the request, complete an investigation that includes an inspection conducted by housing inspectors that are certified at the State and local level.

1 “(B) If the housing office agrees with a claim by a
2 tenant under subparagraph (A) with respect to a housing
3 unit, the housing office shall notify the landlord respon-
4 sible for such unit of the issues described in subsection
5 (a) that require remediation in accordance with the re-
6 quirements of the Department of Defense or State or local
7 law.

8 “(C) If after an inspection conducted under subpara-
9 graph (A)(ii), the request of the tenant to withhold pay-
10 ment is denied, the tenant may appeal that decision to
11 the commander of the military installation concerned.

12 “(3) In accordance with procedures established under
13 paragraph (1)(A)(i) for the withholding of any basic allow-
14 ance for housing or other allotment pay under this sub-
15 section, if the landlord responsible for the housing unit
16 does not remediate the issues described in paragraph (1)
17 during a timeline reasonably established by the housing
18 office for the remediation of the issue, the amount payable
19 to the landlord for such unit—

20 “(A) shall be reduced by 10 percent for each
21 period of five days during which the issues are not
22 remediated; and

23 “(B) the amount of any such reduction shall be
24 returned to the tenant to whom such amount was
25 provided.

1 “(b) DISCLOSURE OF RIGHTS.—(1) Each housing of-
2 fice of a military installation shall disclose in writing to
3 each new tenant of a housing unit under this subchapter,
4 upon the signing of the lease for the housing unit, their
5 rights with respect to the housing unit and the procedures
6 under this section for filing a claim against the landlord
7 responsible for the housing unit.

8 “(2) The Secretary of Defense shall ensure that each
9 lease entered into with a tenant for a housing unit under
10 this subchapter clearly expresses in a separate addendum
11 the procedures under this section for filing a claim against
12 the landlord responsible for the housing unit.

13 “(c) RELOCATION.—(1) The Secretary concerned
14 shall include in any contract with a landlord responsible
15 for a housing unit under this subchapter under the juris-
16 diction of the Secretary concerned a requirement that the
17 landlord pay all costs associated with relocation of a ten-
18 ant of such unit, including moving services, temporary
19 lodging, per diem, and any other reasonable costs associ-
20 ated with such relocation, if the housing office with juris-
21 diction over the housing unit finds that the housing unit
22 requires renovations or maintenance that necessitate the
23 tenant relocating permanently or temporarily.

24 “(2) In the case of renovations or maintenance to a
25 housing unit under this subchapter that necessitate a ten-

1 ant relocating permanently or temporarily, the tenant may
2 relocate to a residence outside of the military installation
3 at which the housing unit is located without incurring any
4 penalty from the landlord or the Department of Defense.

5 “(d) APPROVAL OF COMPLETED WORK.—A landlord
6 responsible for a housing unit under this subchapter may
7 not indicate on the maintenance work order system of the
8 landlord that maintenance work was completed until the
9 tenant of such housing unit approves the completion of
10 the maintenance work in writing.

11 “(e) PAYMENT OF MEDICAL BILLS.—The Secretary
12 concerned shall include in any contract with a landlord
13 responsible for a housing unit under this subchapter under
14 the jurisdiction of the Secretary concerned a requirement
15 that, if the landlord is found by the Secretary concerned
16 to have not maintained the minimum standards of habit-
17 ability for such housing unit, the landlord shall pay all
18 medical bills for a tenant of such housing unit that are
19 associated with the conditions of such housing unit that
20 do not meet such minimum standards.

21 “(f) REPORT ON DENIED APPEALS.—The com-
22 mander of each military installation shall submit to the
23 congressional defense committees, not less frequently than
24 annually, a report on all appeals to such commander under

1 subsection (b)(3) that were denied during the year covered
2 by the report.

3 “(g) RULE OF CONSTRUCTION ON USE OF OTHER
4 ADJUDICATIVE BODIES.—Nothing in this section or any
5 other provision of law shall be construed to prohibit a ten-
6 ant of a housing unit under this subchapter from pursuing
7 a claim against a landlord in any adjudicative body with
8 jurisdiction over the housing unit.

9 “(h) TREATMENT OF HOUSING LAWS.—Notwith-
10 standing any other provision of law, all Federal, State,
11 and local housing protections that would otherwise apply
12 to a tenant located in a jurisdiction surrounding a military
13 installation in the United States, including standards re-
14 lating to habitability and defenses to eviction, shall apply
15 to a tenant residing in a housing unit under this sub-
16 chapter that is located on a military installation.

17 **“§ 2889. Complaint database**

18 “(a) DATABASE REQUIRED.—The Secretary of De-
19 fense shall establish a database that is available to the
20 public of complaints relating to housing units under this
21 subchapter.

22 “(b) FILING OF COMPLAINTS.—The Secretary shall
23 ensure that a tenant of a housing unit under this sub-
24 chapter may file a complaint relating to such housing unit
25 for inclusion in the database under subsection (a).

1 “(c) RESPONSE BY LANDLORD.—(1) The Secretary
2 shall include in any contract with a landlord responsible
3 for a housing unit under this subchapter a requirement
4 that the landlord respond to any complaints included in
5 the database under subsection (a) that relate to the hous-
6 ing unit.

7 “(2) Any response under paragraph (1) shall be in-
8 cluded in the database under subsection (a).

9 **“§ 2890. Screening and registry of individuals with**
10 **health conditions resulting from unsafe**
11 **housing units**

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

17 “(2) The Secretary may establish procedures through
18 which screening under paragraph (1) may allow an eligible
19 individual to be included in the registry under subsection
20 (b).

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

24 “(2) The Secretary shall include any information in
25 the registry under paragraph (1) that the Secretary deter-

1 mines necessary to ascertain and monitor the health of
 2 eligible individuals and the connection between the health
 3 of such individuals and an unsafe housing unit under this
 4 subchapter.

5 “(3) The Secretary shall develop a public information
 6 campaign to inform eligible individuals about the registry
 7 under paragraph (1), including how to register and the
 8 benefits of registering.

9 “(c) DEFINITIONS.—In this section:

10 “(1) The term ‘covered condition’ means a med-
 11 ical condition that is determined by the Secretary of
 12 Defense to have resulted from residing in an unsafe
 13 housing unit under this subchapter.

14 “(2) The term ‘eligible individual’ means a
 15 member of the Armed Forces or a family member of
 16 a member of the Armed Forces who has resided in
 17 an unsafe housing unit under this subchapter.”.

18 **“§ 2891. Financial transparency**

19 “(a) PUBLICATION OF DETAILS OF CONTRACTS.—(1)
 20 Not less frequently than annually, the Secretary of De-
 21 fense shall publish in the Federal Register the financial
 22 details of each contract for the management of housing
 23 units under this subchapter.

24 “(2) The financial details published under paragraph
 25 (1) shall include the following:

1 “(A) Base management fees for managing the
2 housing units.

3 “(B) Incentive fees relating to the housing
4 units, including details on the following:

5 “(i) Metrics upon which such incentive fees
6 are paid.

7 “(ii) Whether incentive fees were paid in
8 full or withheld in part or in full during the
9 year covered by the publication, and if so, why.

10 “(C) Asset management fees relating to the
11 housing units.

12 “(D) Preferred return fees relating to the hous-
13 ing units.

14 “(E) Any deferred fees or other fees relating to
15 the housing units.

16 “(F) Residual cash flow distributions relating
17 to the housing units.

18 “(b) ANNUAL FINANCIAL STATEMENTS.—(1) The
19 Secretary of Defense shall require that each landlord sub-
20 mit to the Secretary, not less frequently than annually,
21 financial statements equivalent to a 10-K (or successor
22 form) for—

23 “(A) the landlord; and

1 “(B) each contract entered into between the
2 landlord and the Department of Defense under this
3 subchapter.

4 “(2) The Secretary shall publish on a publicly avail-
5 able website of the Department of Defense the information
6 submitted to the Secretary under paragraph (1) not later
7 than 15 days after receiving that information.”.

8 (b) LANDLORD DEFINED.—Section 2871 of such title
9 is amended—

10 (1) by redesignating paragraphs (7) and (8) as
11 paragraphs (8) and (9), respectively; and

12 (2) by inserting after paragraph (6) the fol-
13 lowing new paragraph (7):

14 “(7) The term ‘landlord’ means an eligible enti-
15 ty or lessor who owns, manages, or is otherwise re-
16 sponsible for a housing unit under this subchapter.”.

17 (c) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of chapter 169 of such title is amended
19 by inserting after the item relating to section 2886 the
20 following new items:

“2887. Oversight by Department of Defense of contracts and housing units.

“2888. Tenant rights.

“2889. Complaint database.

“2890. Screening and registry of individuals with health conditions resulting
from unsafe housing units.

“2891. Financial transparency.”.

1 **SEC. 3. ANNUAL REPORT ON PRIVATE MILITARY HOUSING.**

2 Section 2884 of title 10, United States Code, is
3 amended by adding at the end the following new sub-
4 section:

5 “(d) ANNUAL REPORT ON HOUSING.—(1) Not less
6 frequently than annually, the Secretary of Defense shall
7 submit to the congressional defense committees and pub-
8 lish on a publicly available website of the Department of
9 Defense a report on housing units under this subchapter,
10 disaggregated by military installation.

11 “(2) Each report submitted under paragraph (1)
12 shall include the following:

13 “(A) An assessment of the condition of housing
14 units under this subchapter based on the average
15 age of those units and the estimated time until re-
16 capitalization.

17 “(B) An analysis of complaints of tenants of
18 such housing units.

19 “(C) An assessment of maintenance response
20 times and completion of maintenance requests relat-
21 ing to such housing units.

22 “(D) An assessment of dispute resolution relat-
23 ing to such housing units.

24 “(E) An assessment of overall customer service
25 for tenants of such housing units.

1 “(F) A description of the results of no-notice
2 housing inspections conducted for such housing
3 units under section 2887(c) of this title.

4 “(G) The results of resident surveys conducted
5 under section 2887(d) of this title.”.

6 **SEC. 4. PRESUMPTIONS OF SERVICE CONNECTION FOR ILL-**
7 **NESSES ASSOCIATED WITH RESIDING IN PRI-**
8 **VATE MILITARY HOUSING.**

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

12 **“§ 1119. Presumptions of service connection for ill-**
13 **nesses associated with residing in private**
14 **military housing**

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

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

24 “(A) the Secretary determines, in consultation
25 with the Agency for Toxic Substances and Disease

1 Registry, in regulations prescribed under this section
2 to warrant a presumption of service connection by
3 reason of having a positive association with resi-
4 dence in a private military housing unit while serv-
5 ing in the Armed Forces during a period determined
6 by the Secretary in consultation with the Agency for
7 Toxic Substances and Disease Registry; and

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

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

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

1 ease in humans, the Secretary shall prescribe regulations
2 providing that a presumption of service connection is war-
3 ranted for that disease for the purposes of this section.

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) PRIVATE MILITARY HOUSING UNIT DE-
 5 FINED.—In this section, the term ‘private military housing
 6 unit’ means a housing unit under subchapter IV of chap-
 7 ter 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 private military housing.”.

12 **SEC. 5. HOSPITAL CARE, MEDICAL SERVICES, AND NURS-**
 13 **ING HOME CARE FOR FAMILY MEMBERS OF**
 14 **VETERANS WHO RESIDED IN PRIVATE MILI-**
 15 **TARY HOUSING.**

16 (a) IN GENERAL.—Subchapter VIII of chapter 17 of
 17 title 38, United States Code, is amended by inserting after
 18 section 1786 following new section:

19 **“§ 1786A. Health care of family members of veterans**
 20 **who resided in private military housing**

21 “(a) IN GENERAL.—A family member of a veteran
 22 described in paragraph (3) of section 1119(a) of this title
 23 who resided in a private military housing unit during the
 24 period described in paragraph (2) of such section, or who

1 was in utero during such period while the mother of such
 2 family member resided in such housing unit, shall be eligi-
 3 ble for hospital care, medical services, and nursing home
 4 care furnished by the Secretary for any covered illness
 5 that is associated with residing in a private military hous-
 6 ing unit during such period.

7 “(b) DEFINITIONS.—In this section:

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

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

13 (b) CLERICAL AMENDMENT.—The table of sections
 14 at the beginning of such chapter is amended by inserting
 15 after the item relating to section 1786 the following new
 16 item:

“1786A. Health care of family members of veterans who resided in private mili-
 tary housing.”.

17 **SEC. 6. ETHICAL LIMITATIONS RELATING TO OWNERSHIP**
 18 **OF PRIVATE MILITARY HOUSING ENTITIES.**

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

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

24 “(A) who—

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

3 “(ii) serves on the Committee on Armed
4 Services of the Senate or the Committee on
5 Armed Services of the House of Representa-
6 tives;

7 “(B) who is an employee (as defined in section
8 2105 of title 5) of the Department of Defense who
9 is serving—

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

12 “(ii) in a position on the Executive Sched-
13 ule under subchapter II of chapter 53 of title
14 5; or

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

20 “(C) who is a member of the Armed Forces
21 serving in a position for which the pay grade is at
22 or above level O–6.

23 “(2) A covered individual may not own any interest
24 (other than as part of a widely held investment fund de-
25 scribed in section 102(f)(8) of the Ethics in Government

1 Act of 1978 (5 U.S.C. App.)) in an entity that owns or
 2 manages a housing unit under subchapter IV of chapter
 3 169 of title 10.”.

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

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

9 (2) in subsection (b), in the first sentence, by
 10 inserting “or a violation of section 208(e)” after
 11 “209 of this title”; and

12 (3) in subsection (c)—

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

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

18 **SEC. 7. MODIFICATION OF CONTRACTS.**

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

○