

TITLE 10 - ARMED FORCES**Subtitle A - General Military Law****PART IV - SERVICE, SUPPLY, AND PROCUREMENT****CHAPTER 169 - MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING****SUBCHAPTER III - ADMINISTRATION OF MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING****§ 2860. Availability of appropriations**

Funds appropriated to a military department or to the Secretary of Defense for a fiscal year for military construction or military family housing purposes may remain available for obligation beyond such fiscal year to the extent provided in appropriation Acts.

(Added Pub. L. 97–214, § 2(a), July 12, 1982, 96 Stat. 167; amended Pub. L. 99–167, title VIII, § 812(a), Dec. 3, 1985, 99 Stat. 991; Pub. L. 99–173, § 121(b), Dec. 10, 1985, 99 Stat. 1029; Pub. L. 99–661, div. A, title XIII, § 1343(a)(21)(A), Nov. 14, 1986, 100 Stat. 3994.)

Amendments

1986—Pub. L. 99–661 substituted “to the Secretary of Defense” for “defense agency”, inserted “for obligation” after “remains available”, and struck out “the” before “appropriation Acts”.

1985—Pub. L. 99–173 substituted “Availability of appropriations” for “Availability of appropriations for five years” as section catchline, and amended text generally. Prior to amendment, text read as follows: “Subject to the provisions of appropriation Acts, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.”

Pub. L. 99–167 struck out subsection designation “(a)” and “and except as otherwise provided under subsection (b)” after “provisions of appropriation Acts”, and struck out subsec. (b) which provided: “Should a requirement develop to obligate funds for a military construction project after the end of the fourth fiscal year after the fiscal year for which such funds were appropriated, such obligation may be made after the end of the 21-day period beginning on the date on which the appropriate committees of Congress receive notification of the need for such obligation and the reasons therefor.”

Effective Date of 1985 Amendments

Section 121(c) of Pub. L. 99–173 provided that: “The amendment made by subsection (b) [amending this section] shall apply to funds appropriated after the date of the enactment of Public Law 99–103 [Sept. 30, 1985].”

Section 812(b) of Pub. L. 99–167 provided that: “The amendments made by subsection (a) [amending this section] shall apply to funds appropriated after September 30, 1985.”

Effective Date

For effective date and applicability of section, see section 12(a) of Pub. L. 97–214, set out as a note under section 2801 of this title.

Availability of Appropriations for Five Years

Pub. L. 109–114, title I, § 117, Nov. 30, 2005, 119 Stat. 2378, which provided that any funds made available to a military department or defense agency for the construction of military projects could be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were made available, if the funds obligated for such project: (1) were obligated from funds available for military construction projects; and (2) did not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law, was from the Military Construction, Military Quality of Life and Veterans Affairs Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 108–324, div. A, § 117, Oct. 13, 2004, 118 Stat. 1227.
 Pub. L. 108–132, § 117, Nov. 22, 2003, 117 Stat. 1380.
 Pub. L. 107–249, § 117, Oct. 23, 2002, 116 Stat. 1583.
 Pub. L. 107–64, § 117, Nov. 5, 2001, 115 Stat. 479.
 Pub. L. 106–246, div. A, § 117, July 13, 2000, 114 Stat. 516.
 Pub. L. 106–52, § 117, Aug. 17, 1999, 113 Stat. 264.
 Pub. L. 105–237, § 117, Sept. 20, 1998, 112 Stat. 1558.
 Pub. L. 105–45, § 117, Sept. 30, 1997, 111 Stat. 1147.
 Pub. L. 104–196, § 117, Sept. 16, 1996, 110 Stat. 2391.
 Pub. L. 104–32, § 117, Oct. 3, 1995, 109 Stat. 289.
 Pub. L. 103–307, § 118, Aug. 23, 1994, 108 Stat. 1664.
 Pub. L. 103–110, § 118, Oct. 21, 1993, 107 Stat. 1043.
 Pub. L. 102–380, § 119, Oct. 5, 1992, 106 Stat. 1371.
 Pub. L. 102–136, § 119, Oct. 25, 1991, 105 Stat. 643.
 Pub. L. 101–519, § 119, Nov. 5, 1990, 104 Stat. 2246.
 Pub. L. 101–148, § 121, Nov. 10, 1989, 103 Stat. 925.
 Pub. L. 100–447, § 124, Sept. 27, 1988, 102 Stat. 1835.

Transfer of Funds for Foreign Currency Fluctuations

Pub. L. 108–132, § 118, Nov. 22, 2003, 117 Stat. 1380, which provided that during the 5-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations would not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations could be transferred into the appropriation “Foreign Currency Fluctuations, Construction, Defense” to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred, was from the Military Construction Appropriations Act, 2005 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were also contained in the following prior appropriations acts:

Pub. L. 107–249, § 118, Oct. 23, 2002, 116 Stat. 1584.
 Pub. L. 107–64, § 118, Nov. 5, 2001, 115 Stat. 480.
 Pub. L. 106–246, div. A, § 118, July 13, 2000, 114 Stat. 516.
 Pub. L. 106–52, § 118, Aug. 17, 1999, 113 Stat. 264.
 Pub. L. 105–237, § 118, Sept. 20, 1998, 112 Stat. 1559.
 Pub. L. 105–45, § 118, Sept. 30, 1997, 111 Stat. 1147.
 Pub. L. 104–196, § 118, Sept. 16, 1996, 110 Stat. 2392.
 Pub. L. 104–32, § 118, Oct. 3, 1995, 109 Stat. 289.
 Pub. L. 103–307, § 119, Aug. 23, 1994, 108 Stat. 1665.
 Pub. L. 103–110, § 120, Oct. 21, 1993, 107 Stat. 1043.
 Pub. L. 102–380, § 121, Oct. 5, 1992, 106 Stat. 1372.
 Pub. L. 102–136, § 122, Oct. 25, 1991, 105 Stat. 643.
 Pub. L. 99–500, § 101(k) [title I, § 121], Oct. 18, 1986, 100 Stat. 1783–287, 1783–293, and Pub. L. 99–591, § 101(k) [title I, § 121], Oct. 30, 1986, 100 Stat. 3341–287, 3341–293, as amended by Pub. L. 102–136, § 122, Oct. 25, 1991, 105 Stat. 643, provided that: “For Transfer by the Secretary of Defense to and from appropriations and funds not merged pursuant to subsection 1552(a)(1) of title 31 of the United States Code and available for obligation or expenditure during fiscal year 1987 or thereafter, for military construction or expenses of family housing for the military departments and Defense agencies, in order to maintain the budgeted level of operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

in foreign currency exchange rates that vary substantially from those used in preparing budget submissions, an appropriation, to remain available until expended: Provided, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the appropriation or fund to which transferred, and funds transferred to this appropriation shall be merged with, and available for the purpose of this appropriation until expended: Provided further, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: Provided further, That authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for military construction and family housing expenses are hereby increased to the extent necessary to reflect downward fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission: Provided further, That for the purposes of the appropriation 'Foreign Currency Fluctuations, Construction, Defense' the foreign currency rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on the Acts making appropriations for military construction for the Department of Defense: Provided further, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or made from this appropriation: Provided further, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions and adjustments to reflect fluctuations in such rates may be recorded as disbursements are made: Provided further, That, at the discretion of the Secretary of Defense, any savings generated in the military construction and family housing programs may be transferred to this appropriation."