SEC. ___. ARMED FORCES RETIREMENT HOME REAL PROPERTY.

Section 1511 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 411) is amended—

(1) in subsection (e)—

(A) in paragraph (2)—

(i) by striking "Secretary of Defense may acquire," and inserting "Chief Operating Officer may acquire,"; and

(ii) by striking "Secretary may acquire" and inserting "Chief Operating Officer may acquire"; and

(B) in paragraph (3)—

(i) by striking "Secretary of Defense determines" and inserting "Chief Operating Officer determines"; and

(ii) by striking "Secretary shall dispose" and inserting "Chief Operating Officer shall dispose"; and

(2) in subsection (i)—

(A) in paragraph (1)—

(i) by striking "Secretary of Defense (acting on behalf of the Chief Operating Officer)" and inserting "Chief Operating Officer"; and

(ii) by striking "Secretary considers" and inserting "Chief Operating Officer considers";

(B) in paragraph (5), by striking "the Secretary of Defense may not enter into the lease on behalf of the Chief Operating Officer" and inserting "the Chief Operating Officer may not enter into the lease"; and

(5) in paragraph (6)(A), by striking “Secretary of Defense” in subparagraph (A) and inserting “Chief Operating Officer”.

Section-by-Section Analysis

AFRH’s only opportunity at this time for generating significant revenue is through the leasing of underutilized buildings and lands at the Washington, DC facility. Currently the Secretary of Defense has authority to lease or sale AFRH property. Because the Secretary of Defense does not have authority to delegate his responsibilities outside of DoD and the military branches, the Secretary has directed AFRH to work with the U.S. Army Corps of Engineers (USACE), an entity of DoD who has authority to lease DoD and Army property. Since AFRH is an independent federal establishment under the executive branch and not a DoD or military branch, USACE has run into several policy and authority questions in managing and signing leases on behalf of AFRH.

Due to delays in USACE ability to execute leases on AFRH’s behalf, AFRH has lost significant revenue and missed several viable opportunities to lease additional properties. What is potentially AFRH’s best revenue generating project, vice relying on federal funds, has been stalled since late 2014. Providing leasing authority to the AFRH COO, who reports to the Secretary of Defense per legislation, allows the COO to work directly with GSA under the oversight of the Secretary of Defense to expedite several projects producing valuable revenue for the Trust Fund. This legislative change would allow AFRH to use the same leasing method utilized by other federal agencies. Since AFRH’s largest revenue generating opportunity is a large, complex lease with a private developer, working with GSA, the federal government’s expert in leases to private developers, increases the opportunity for generating significant revenue while mitigating risks.

If this legislative proposal is approved, there are several AFRH-W revenue generating lease opportunities which could be pursued:

<u>80 acres Southeast Corner</u>: Before AFRH became aware of USACE inability to sign leases on AFRH’s behalf, AFRH initially worked with GSA who helped AFRH develop a Master Plan for the 80 acre development zone which was approved by the National Capital Planning Commission, The Commission of Fine Arts, and the DC Government Planning Offices. After the Master Plan was approved, extensive work had been completed on required documents and a solicitation was developed by GSA, GSA was poised to publish the solicitation in mid-FY 2015. However, due to a DoD legal review of the GSA solicitation / leasing activities and the limits of the Secretary’s authority, AFRH was instructed to utilize USACE and restart the process. Since mid-FY 2015, USACE, while working to resolve authority and policy issues, has been unable to generate or publish a solicitation for a lease due to the uncertainty of policy and authority. Not only have these issues caused delays in generating revenue but have also costs AFRH value dollars since AFRH is required to reimburse USACE for the work they perform on behalf of AFRH and several documents were restarted to meet DoD / USACE requirements.

As part of the GSA solicitation process, AFRH and GSA hosted a market industry day which was overwhelming attended. If this legislative change is approved, the solicitation for this project could be released within 60-90 days. This project is projected to generate an estimated $1-3 million payment at lease signing and an additional $8-10+ million annually after the development period which is expected to be five years. The project would not only generates revenue but also reduce AFRH annual O&M costs to maintain the property and provide additional services for residents within walking distance.

LaGuarde Building (214,000 sq. ft.)—Although this building is part of the Master Plan, it could be leased in advance of the 80 acres project to generate immediate revenue. The property needs some repair and renovation but not as extensive as other buildings. Since the property has not been appraised, revenue projections are not available.

Decommissioned Heating Plant (33,000-35,000 sq. ft.)—Although the plant is part of the Master Plan, it could be leased in advance of the full 80 acre project. Prior to realizing the issues concerning USACE signing leases on behalf of AFRH, AFRH advertised this opportunity on Federal Business Opportunities (FedBizOps) to gage market interest. Multiple parties expressed interest but AFRH could not move forward with the project due to issues with lease signing authority. AFRH estimates the plant could generate $1-$1.5 million annually once in-kind consideration which is expected to take 2-3 years.

Grant Building (169,000 sq. ft.)—This historical building has a separate gate access and multiple interested parties have contacted AFRH regarding its availability. Since the building needs extensive renovation and repair, the time period to liquidate in-kind consideration is longer than other buildings. Revenue is anticipated at $3.5 – 4 million after in-kind consideration which is expected to be approximately 7-10 years after occupancy. AFRH also placed this opportunity on FedBizOps to gage market interest, and again, had several interested parties but was unable to move forward.

Sheridan Building Antennas / Roof Access—AFRH is the ideal location for government antennas due to building heights and ground elevation. Several agencies currently utilize AFRH roofs for city wide communications and monitoring. Since leases cannot be executed by the COO, AFRH only has the authority to collect annual operating expenses but cannot charge the market value for use of the space. Estimated annual revenue if leases could be signed is approximately $30,000. Up to 20 additional antennas could be installed.

Changes to Existing Law: This proposal would make the following changes to section 1511 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 411):

SEC. 1511. ESTABLISHMENT OF THE ARMED FORCES RETIREMENT HOME

(a) INDEPENDENT ESTABLISHMENT.—The Armed Forces Retirement Home is an independent establishment in the executive branch.

(b) PURPOSE.—The purpose of the Retirement Home is to provide, through the Armed Forces Retirement Home--Washington and the Armed Forces Retirement Home--Gulfport, residences and related services for certain retired and former members of the Armed Forces.

(c) FACILITIES.—(1) Each facility of the Retirement Home referred to in paragraph (2) is a separate establishment of the Retirement Home.

(2) The United States Soldiers' and Airmen's Home is hereby redesignated as the Armed Forces Retirement Home--Washington. The Naval Home is hereby redesignated as the Armed Forces Retirement Home--Gulfport.

(d) OPERATION.—(1) The Chief Operating Officer of the Armed Forces Retirement Home is the head of the Retirement Home. The Chief Operating Officer is subject to the authority, direction, and control of the Secretary of Defense.

(2) Each facility of the Retirement Home shall be maintained as a separate establishment of the Retirement Home for administrative purposes and shall be under the authority, direction, and control of the Administrator of that facility. The Administrator of each facility of the Retirement Home is subject to the authority, direction, and control of the Chief Operating Officer.

(3) The administration of the Retirement Home, including administration for the provision of health care and medical care for residents, shall remain under the control and administration of the Secretary of Defense.

(e) PROPERTY AND FACILITIES.—(1) The Retirement Home shall include such property and facilities as may be acquired under paragraph (2) or accepted under section 1515(f) for inclusion in the Retirement Home.

(2) The ~~Secretary of Defense~~ Chief Operating Officer may acquire, for the benefit of the Retirement Home, property and facilities for inclusion in the Retirement Home. If the purchase price to acquire fee title to real property for inclusion in the Retirement Home is more than $ 750,000, the ~~Secretary~~ Chief Operating Officer may acquire the real property only if the acquisition is specifically authorized by law.

(3) If the ~~Secretary of Defense~~ Chief Operating Officer determines that any property of the Retirement Home is excess to the needs of the Retirement Home, the ~~Secretary~~ Chief Operating Officer shall dispose of the property in accordance with subchapter III of chapter 5 of title 40, United States Code (40 U.S.C. 541 et seq.). The proceeds from the disposal of property under this paragraph shall be deposited in the Armed Forces Retirement Home Trust Fund.

(f) DEPARTMENT OF DEFENSE SUPPORT.—The Secretary of Defense may make available from the Department of Defense to the Retirement Home, on a nonreimbursable basis, administrative support and office services, legal and policy planning assistance, access to investigative facilities of the Inspector General of the Department of Defense and of the military departments, and any other support necessary to enable the Retirement Home to carry out its functions under this title.

(g) ACCREDITATION.—The Chief Operating Officer shall secure and maintain accreditation by a nationally recognized civilian accrediting organization for each aspect of each

facility of the Retirement Home, including medical and dental care, pharmacy, independent living, and assisted living and nursing care.

(h) ANNUAL REPORT.—The Secretary of Defense shall transmit to Congress an annual report on the financial and other affairs of the Retirement Home for each fiscal year. The annual report shall include an assessment of all aspects of each facility of the Retirement Home, including the quality of care at the facility.

(i) AUTHORITY TO LEASE NON-EXCESS PROPERTY.—(1) Whenever the Chief Operating Officer of the Armed Forces Retirement Home considers it advantageous to the Retirement Home, the ~~Secretary of Defense (acting on behalf of the Chief Operating Office)~~ Chief Operating Officer may lease to such lessee and upon such terms as the ~~Secretary~~ Chief Operating Officer considers will promote the purpose and financial stability of the Retirement Home or be in the public interest, real or personal property that is--

(A) under the control of the Retirement Home; and

(B) not excess property (as defined by section 102 of title 40, United States Code) subject to disposal under subsection (e)(3).

(2) A lease under this subsection--

(A) may not be for more than five years, unless the Chief Operating Officer determines that a lease for a longer period will promote the purpose and financial stability of the Retirement Home or be in the public interest;

(B) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;

(C) shall permit the Chief Operating Officer to revoke the lease at any time, unless the Chief Operating Officer determines that the omission of such a provision will promote the purpose and financial stability of the Retirement Home or be in the public interest;

(D) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Chief Operating Officer;

(E) may provide, notwithstanding section 1302 of title 40, United States Code, or any other provision of law, for the alteration, repair, or improvement, by the lessee, of the property leased as the payment of part or all of the consideration for the lease; and

(F) may not provide for a leaseback by the Retirement Home with an annual payment in excess of $ 100,000, or otherwise commit the Retirement Home or the Department of Defense to annual payments in excess of such amount.

(3) In addition to any in-kind consideration accepted under subparagraph (D) or (E) of paragraph (2), in-kind consideration accepted with respect to a lease under this subsection may include the following:

(A) Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities of the Retirement Home.

(B) Construction of new facilities for the Retirement Home.

(C) Provision of facilities for use by the Retirement Home.

(D) Facilities operation support for the Retirement Home.

(E) Provision of such other services relating to activities that will occur on the leased property as the Chief Operating Officer considers appropriate.

(4) In-kind consideration under paragraph (3) may be accepted at any property or facilities of the Retirement Home that are selected for that purpose by the Chief Operating Officer.

(5) In the case of a lease for which all or part of the consideration proposed to be accepted under this subsection is in-kind consideration with a value in excess of $500,000, the ~~Secretary of Defense may not enter into the lease on behalf of the Chief Operating Officer~~ Chief Operating Officer may not enter in to the lease until at least 30 days after the date on which a report on the facts of the lease is submitted to Congress. This paragraph does not apply to a lease covered by paragraph (6).

(6)(A) If a proposed lease under this subsection involves only personal property, the lease term exceeds one year, or the fair market value of the lease interest exceeds $ 100,000, as determined by the Chief Operating Officer, the ~~Secretary of Defense~~ Chief Operating Officer shall use competitive procedures to select the lessee unless the Chief Operating Officer determines that—

(i) a public interest will be served as a result of the lease; and

(ii) the use of competitive procedures for the selection of certain lessees is unobtainable or not compatible with the public benefit served under clause (i).

(B) Not later than 45 days before entering into a lease described in subparagraph (A), the Chief Operating Officer shall submit to Congress written notice describing the terms of the proposed lease and—

(i) the competitive procedures used to select the lessee; or

(ii) in the case of a lease involving the public benefit exception authorized by subparagraph (A)(ii), a description of the public benefit to be served by the lease.

(7) The proceeds from the lease of property under this subsection shall be deposited in the Armed Forces Retirement Home Trust Fund.

(8) The interest of a lessee of property leased under this subsection may be taxed by State or local governments. A lease under this subsection shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an Act of Congress, the lease shall be renegotiated.