

ACT OF JUNE 21, 1940

[Chapter 409, 76 Stat. 497]

[Popularly known as the “Truman-Hobbs Act”]

[As Amended Through P.L. 116–283, Enacted January 1, 2021]

【Currency: This publication is a compilation of the text of Chapter 409 of the 76th Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION 1. 【33 U.S.C. 511】 When used in this Act, unless the context indicates otherwise—

The term “alteration” includes changes of any kind, reconstruction, or removal in whole or in part.

The term “bridge” means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic, or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

The term “bridge owner” means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code, or lessee, such term shall include both the owner of the legal title and the person or the entity in possession or control of such bridge.

The term “Secretary” means the Secretary of the department in which the Coast Guard is operating.

The term “United States”, when used in a geographical sense, includes the Territories and possessions of the United States.

OBSTRUCTION OF NAVIGATION

SEC. 2. [33 U.S.C. 512] No bridge shall at any time unreasonably obstruct the free navigation of any navigable waters of the United States.

NOTICE, HEARINGS, AND FINDINGS

SEC. 3. [33 U.S.C. 513] Whenever any bridge shall, in the opinion of the Secretary, at any time unreasonably obstruct such navigation, it shall be the duty of the Secretary, after notice to interested parties, to hold a hearing at which the bridge owner, those interested in water navigation thereunder or therethrough, those interested in either railroad or highway traffic thereover, and any other party or parties in interest shall have full opportunity to offer evidence and be heard as to whether any alteration of such bridge is needed, and if so what alterations are needed, having due regard to the necessity of free and unobstructed water navigation and to the necessities of the rail or highway traffic. If, upon such hearing, the Secretary determines that any alterations of such bridge are necessary in order to render navigation through or under it reasonably free, easy, and unobstructed, having due regard also for the necessities of rail or highway traffic thereover, he shall so find and shall issue and cause to be served upon interested parties an order requiring such alterations of such bridge as he finds to be reasonably necessary for the purposes of navigation.

SUBMISSION AND APPROVAL OF GENERAL PLANS AND SPECIFICATIONS

SEC. 4. [33 U.S.C. 514] After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the Secretary of the department in which the Coast Guard is operating, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterward approved by the Secretary and the bridge owner.

CONTRACTS FOR PROJECT; GUARANTY OF COST

SEC. 5. [33 U.S.C. 515] After approval of such general plans and specifications by the Secretary, and after notification of such approval, the bridge owner shall, in such manner and within such times as the Secretary may prescribe, take bids for the alteration of such bridge in accordance with such general plans and specifications. All bids, including any bid for all or part of the project submitted by the bridge owner, shall be submitted to the Secretary, together with a recommendation by the bridge owner as to the most competent bid or bids, and at the same time the bridge owner shall submit to the Secretary a written guaranty that the total cost of

the project, including the cost of such work as is to be performed by the bridge owner and not included in the work to be performed by contract, shall not exceed the sum stated in said guaranty. The Secretary may direct the bridge owner to reject all bids and to take new bids, or may authorize the bridge owner to proceed with the project, by contract, or partly by contract and partly by the bridge owner, or wholly by the bridge owner. Upon such authorization and fixing of the proportionate shares of the cost as provided in section 6, the bridge owner shall, within a reasonable time to be prescribed by the Secretary, proceed with the work of alteration; and the cost thereof shall be borne by the United States and by the bridge owner, as hereinafter provided: *Provided*, That where funds have been appropriated for part only of a project, the bridge owner may take bids for part only of the work. In the event the bridge owner proceeds with the alteration through the taking of successive partial bids, the bridge owner shall, if required by the Secretary, submit a revised guaranty of cost after bids are accepted for successive parts of the work..¹

APPORTIONMENT OF COST

SEC. 6. [33 U.S.C. 516] At the time the Secretary shall authorize the bridge owner to proceed with the project, as provided in section 5, and after an opportunity to the bridge owner to be heard thereon, the Secretary shall determine and issue an order specifying the proportionate shares of the total cost of the project to be borne by the United States and by the bridge owner. Such apportionment shall be made on the following basis: The bridge owner shall bear such part of the cost as is attributable to the direct and special benefits which will accrue to the bridge owner as a result of the alteration, including the expectable savings in repair or maintenance costs; and that part of the cost attributable to the requirements of traffic by railroad or highway, or both, including any expenditure for increased carrying capacity of the bridge, and including such proportion of the actual capital cost of the old bridge or of such part of the old bridge as may be altered or changed or rebuilt, as the used service life of the whole or a part, as the case may be, bears to the total estimated service life of the whole or such part: *Provided further*, That in the event the alteration or relocation of any bridge may be desirable for the reason that the bridge unreasonably obstructs navigation, but also for some other reason, the Secretary may require equitable contribution from any interested person, firm, association, corporation, municipality, county, or State desiring such alteration or relocation for such other reason, as a condition precedent to the making of an order for such alteration or relocation. The United States shall bear the balance of the cost, including that part attributable to the necessities of navigation: *And provided further*, That where the bridge owner proceeds with the alteration on a successive partial bid basis

¹So in law. Section 1(b) of P.L. 85-640 (72 Stat. 595) added after the word "provided" the following: "": *Provided*, That where funds have been appropriated for part only of a project, the bridge owner may take bids for part only of the work. In the event the bridge owner proceeds with the alteration through the taking of successive partial bids, the bridge owner shall, if required by the Secretary, submit a revised guaranty of cost after bids are accepted for successive parts of the work.". The amendment did not strike the period after the word "provided".

the Secretary is authorized to issue an order of apportionment of cost for the entire alteration based on the accepted bid for the first part of the alteration and an estimate of cost for the remainder of the work. The Secretary is authorized to revise the order of apportionment of cost, to the extent he deems reasonable and proper, to meet any changed conditions..²

PAYMENT OF SHARE OF THE UNITED STATES

SEC. 7. [33 U.S.C. 517] Following service of the order requiring alteration of the bridge, the Secretary of the department in which the Coast Guard is operating may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and, if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the Secretary of the department in which the Coast Guard is operating may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent he deems to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments to any bridge owner herein provided for shall be made by the Secretary of the Treasury through the Division of Disbursement upon certifications of the Secretary of the department in which the Coast Guard is operating.

APPROPRIATION AUTHORIZED

SEC. 8. [33 U.S.C. 518] There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

FAILURE TO COMPLY WITH ORDERS; PENALTIES; REMOVAL OF BRIDGE

SEC. 9. [33 U.S.C. 519] Any bridge owner who shall willfully fail or refuse to comply with any lawful order of the Secretary, made in accordance with the provisions of this Act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding \$5,000, and every month such bridge owner shall remain in default shall be deemed a new offense and subject such bridge owner to additional penalties therefor. In addition to the penalties above prescribed the Secretary may, upon the failure or refusal of any bridge owner to comply with any lawful order issued by the Secretary in regard thereto, cause the removal of any such bridge and accessory

²So in law. Section 1(c) of P.L. 85-640 (72 Stat. 595) added after the word "navigation" the following: "And provided further, That where the bridge owner proceeds with the alteration on a successive partial bid basis the Secretary is authorized to issue an order of apportionment of cost for the entire alteration based on the accepted bid for the first part of the alteration and an estimate of cost for the remainder of the work. The Secretary is authorized to revise the order of apportionment of cost, to the extent he deems reasonable and proper, to meet any changed conditions.". The amendment did not strike the period after the word "navigation".

works at the expense of the bridge owner; and suit for such expense may be brought in the name of the United States against such bridge owner and recovery had for such expense in any court of competent jurisdiction. The removal of any bridge erected or maintained in violation of the provisions of this Act or the order or direction of the Secretary made in pursuance thereof, and compliance with any order of the Secretary made with respect to any bridge in accordance with the provisions of this Act, may be enforced by injunction, mandamus, or other summary process upon application to the district court of any district in which such bridge may, in whole or in part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States at the request of the Secretary.

REVIEW OF FINDINGS AND ORDERS

SEC. 10. [33 U.S.C. 520] Any order made or issued under section 6 of this Act may be reviewed by the circuit court of appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for such review is filed within three months after the date such order is issued. The judgment of any such court shall be final except that it shall be subject to review by the Supreme Court of the United States upon certification or certiorari, in the manner provided in sections 239 and 240 of the Judicial Code, as amended. The review by such Court shall be limited to questions of law, and the findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. Upon such review, such Court shall have power to affirm or, if the order is not in accordance with law, to modify or to reverse the order, with or without remanding the case for a rehearing as justice may require. Proceedings under this section shall not operate as a stay of any order of the Secretary issued under provisions of this Act other than section 6, or relieve any bridge owner of any liability or penalty under such provisions.

REGULATIONS AND ORDERS

SEC. 11. [33 U.S.C. 521] The Secretary is authorized to prescribe such rules and regulations, and to make and issue such orders, as may be necessary or appropriate for carrying out the provisions of this Act.

[Section 12 was struck by section 8507(b) of Public Law 116-283.]

RELOCATION OF BRIDGES

SEC. 13. [33 U.S.C. 523] If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location would be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way,

stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 6 hereof in the case of an alteration and the share of the United States paid from the appropriation authorized in section 8 hereof: *Provided*, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the Secretary of the department in which the Coast Guard is operating shall not find to be, in fact, a relocation of an existing bridge.