Public Law 98-595
98th Congress

An Act

Oct. 30, 1984
[H.R. 5833]

To improve certain maritime programs of the Department of Transportation and the Department of Commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.) is amended as follows:

46 USC app. 1273.

(1) in section 1103(e), after the last sentence, by adding: "Notwithstanding an assumption of an obligation by the Secretary under section 1105 (a) or (b) of this Act, the validity of the guarantee of an obligation made by the Secretary under this title is unaffected and the guarantee remains in full force and effect.";

46 USC app. 1295.

46 USC app. 1274.

(2) in section 1104, by striking subsection (a)(3) and substituting:

Vessels.
Fish and fishing.

"(3) financing the purchase, reconstruction, or reconditioning of vessels or fishery facilities for which obligations were guaranteed under this title that, under the provisions of section 1105:

"(A) are vessels or fishery facilities for which obligations were accelerated and paid;

"(B) were acquired by the Fund; or

"(C) were sold at foreclosure instituted by the Secretary;";

(3) in section 1104(a)(5), by adding "or" at the end;

(4) in section 1104(a)(6), by striking "facilities; or" and substituting "facilities.";

(5) in section 1104, by striking subsection (a)(7);

(6) in section 1104, by striking subsection (d)(1) and substituting:

"(d)(1)(A) No commitment to guarantee, or guarantee of, an obligation shall be made by the Secretary of Transportation unless the Secretary finds that the property or project with respect to which the obligation will be executed will be economically sound. In making that determination, the Secretary shall consider—

Commerce and trade.

"(i) the need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this title is in effect;

"(ii) the market potential for the employment of the vessel over the life of the guarantee;

"(iii) projected revenues and expenses associated with employment of the vessel;

"(iv) any charters, contracts of affreightment, transportation agreements, or similar agreements or undertakings relevant to the employment of the vessel;

"(v) other relevant criteria; and

"(vi) for inland waterways, the need for technical improvements, including but not limited to increased fuel efficiency, or improved safety.

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"(B) No commitment to guarantee, or guarantee of, an obligation shall be made by the Secretary of Commerce unless the Secretary finds, at or prior to the time such commitment is made or guarantee becomes effective, that the property or project with respect to which the obligation will be executed will be, in the Secretary's opinion, economically sound and in the case of fishing vessels, that the purpose of the financing or refinancing is consistent with the wise use of the fisheries resources and with the development, advancement, management, conservation, and protection of the fisheries resources, or with the need for technical improvements including but not limited to increased fuel efficiency or improved safety.";

(7) in section 1104(h), after the word "acceleration", by adding ", assumption,"; 46 USC app. 1274.

(8) in section 1105(a), in the first sentence after the word "demand", by adding: "(unless the Secretary shall, upon such terms as may be provided in the obligation or related agreements, prior to that demand, have assumed the obligor's rights and duties under the obligation and agreements and shall have made any payments in default)"; 46 USC app. 1275.

(9) in section 1105, by striking subsection (b) and substituting:

"(b) In the event of a default under a mortgage, loan agreement, or other security agreement between the obligor and the Secretary, the Secretary may upon such terms as may be provided in the obligation or related agreement, either: Loans.

"(1) assume the obligor's rights and duties under the agreement, make any payment in default, and notify the obligee or the obligee's agent of the default and the assumption by the Secretary; or

"(2) notify the obligee or the obligee's agent of the default, and the obligee or the obligee's agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 60 days from the date of such notice, payment by the Secretary of the unpaid principal amount of said obligation and of the unpaid interest thereon. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or the obligee's agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment.";

(10) in section 1105(c), first sentence, after the word "payment", by adding "or assumption";

(11) in section 1105(e), by striking the last sentence and substituting: "In the event that the Secretary shall receive through the sale of property an amount of cash in excess of the unpaid principal amount of the obligation and unpaid interest on the obligation and the expenses of collection of those amounts, the Secretary shall pay the excess to the obligor."; and

(12) in section 1104(e), by adding the following sentence at the end thereof: "Such regulations shall provide a formula for determining the creditworthiness of obligors under which the most creditworthy obligors pay a fee computed on the lowest allowable percentage and the least creditworthy obligors pay a fee which may be computed on the highest allowable percentage (the range of creditworthiness to be based on obligors which have actually issued guaranteed obligations).".

SEC. 2. Section 214 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1124) is amended to read as follows:

"(a) For the purpose of any investigation which, in the opinion of the Secretary of Transportation, is necessary and proper in carrying out this Act, the Secretary may subpoena witnesses, administer oaths and affirmations, take evidence, and require the production of books, papers, or other documents that are relevant to the matter under investigation. The attendance of witnesses and the production of books, papers, or other documents may be required from any place in the United States or any territory, district, or possession thereof at any designated place of hearing. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(b) Upon failure of any person to obey a subpoena issued by the Secretary, the Secretary may invoke the aid of any district court of the United States within the jurisdiction in which the person resides or carries on business in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring the person to appear before the Secretary, or an employee designated by the Secretary, there to produce books, papers, or other documents, if so ordered, or to give testimony relevant to the matter under investigation. A failure to obey an order of the court may be punished by the court as a contempt thereof. Process in such a case may be served in the judicial district in which the person resides or may be found.".

SEC. 3. (a) The Shipping Act, 1916 (46 App. U.S.C. 801), is amended as follows:

(1) The first section is amended—

(A) by striking the definitions "common carrier by water" and "common carrier by water in foreign commerce";

(B) in the definition "other person subject to this Act", by striking "common carrier by water" in two places and substituting "common carrier by water in interstate commerce"; and

(C) in the definition "carrying on the business of forwarding", by striking "from the United States, its Territories, or possessions to foreign countries, or".

46 USC app. 815.

(2) The initial paragraph of section 16 is amended by striking "transportation by water" and substituting "transportation by water in interstate commerce".

46 USC app. 820.

(3) Section 21(b) is amended by striking the period following "subject to this Act" and substituting a comma.

(b) The Shipping Act of 1984 (46 App. U.S.C. 1701), is amended as follows:

Ante, p. 70.

(1) Section 5(a) is amended by striking "in section 4" and substituting "in section 4 (a) or (b)".

Ante, p. 80.

(2) Section 11(g) is amended by striking "section 10(c) (1) or (4)" and substituting "section 10(c) (1) or (3)".

(3) The last sentence of section 15 is amended to read as follows: "Whoever fails to file a certificate required by the Commission under this subsection is liable to the United States for a civil penalty of not more than $5,000 for each day the violation continues.". *Ante*, p. 84.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 5833:

HOUSE REPORT No. 98-888 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 98-652 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):
July 24, considered and passed House.
Oct. 10, considered and passed Senate, amended.
Oct. 11, House concurred in Senate amendments.