

Pub. L. 104-61, title VIII, § 8075, Dec. 1, 1995, 109 Stat. 665.

### § 4972. Transferability

A guarantee issued under this subchapter shall be fully and freely transferable.

(Added Pub. L. 104-106, div. A, title XIII, § 1321(a)(1), Feb. 10, 1996, 110 Stat. 476, § 2540a; renumbered § 4972, Pub. L. 116-283, div. A, title XVIII, § 1873(b), (c)(1), Jan. 1, 2021, 134 Stat. 4290.)

#### Editorial Notes

##### AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2540a of this title as this section.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

### § 4973. Limitations

(a) **TERMS AND CONDITIONS OF LOAN GUARANTEES.**—In issuing a guarantee under this subchapter for a medium-term or long-term loan, the Secretary may not offer terms and conditions more beneficial than those that would be provided to the recipient by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

(b) **LOSSES ARISING FROM FRAUD OR MISREPRESENTATION.**—No payment may be made under a guarantee issued under this subchapter for a loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

(c) **NO RIGHT OF ACCELERATION.**—The Secretary of Defense may not accelerate any guaranteed loan or increment, and may not pay any amount, in respect of a guarantee issued under this subchapter, other than in accordance with the original payment terms of the loan.

(Added Pub. L. 104-106, div. A, title XIII, § 1321(a)(1), Feb. 10, 1996, 110 Stat. 476, § 2540b; renumbered § 4973, Pub. L. 116-283, div. A, title XVIII, § 1873(b), (c)(1), Jan. 1, 2021, 134 Stat. 4290.)

#### Editorial Notes

##### AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2540b of this title as this section.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

### § 4974. Fees charged and collected

(a) **EXPOSURE FEES.**—The Secretary of Defense shall charge a fee (known as “exposure fee”) for each guarantee issued under this subchapter.

(b) **AMOUNT OF EXPOSURE FEE.**—To the extent that the cost of the loan guarantees under this subchapter is not otherwise provided for in appropriations Acts, the fee imposed under subsection (a) with respect to a loan guarantee shall be fixed in an amount that is sufficient to meet potential liabilities of the United States under the loan guarantee.

(c) **PAYMENT TERMS.**—The fee under subsection (a) for each guarantee shall become due as the guarantee is issued. In the case of a guarantee for a loan which is disbursed incrementally, and for which the guarantee is correspondingly issued incrementally as portions of the loan are disbursed, the fee shall be paid incrementally in proportion to the amount of the guarantee that is issued.

(d) **ADMINISTRATIVE FEES.**—(1) The Secretary of Defense shall charge a fee for each guarantee issued under this subchapter to reflect the additional administrative costs of the Department of Defense that are directly attributable to the administration of the program under this subchapter. Such fees shall be credited to a special account in the Treasury. Amounts in the special account shall be available, to the extent and in amounts provided in appropriations Acts, for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under this subchapter.

(2)(A) If for any fiscal year amounts in the special account established under paragraph (1) are not available (or are not anticipated to be available) in a sufficient amount for administrative expenses of the Department of Defense for that fiscal year that are directly attributable to the administration of the program under this subchapter, the Secretary may use amounts currently available for operations and maintenance for Defense-wide activities, not to exceed \$500,000 in any fiscal year, for those expenses.

(B) The Secretary shall, from funds in the special account established under paragraph (1), replenish operations and maintenance accounts for amounts expended under subparagraph (A) as soon as the Secretary determines practicable.

(Added Pub. L. 104-106, div. A, title XIII, § 1321(a)(1), Feb. 10, 1996, 110 Stat. 476, § 2540c; amended Pub. L. 106-398, § 1 [[div. A], title X, § 1081(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-284; renumbered § 4974, Pub. L. 116-283, div. A, title XVIII, § 1873(b), (c)(1), Jan. 1, 2021, 134 Stat. 4290.)

#### Editorial Notes

##### AMENDMENTS

2021—Pub. L. 116-283 renumbered section 2540c of this title as this section.

2000—Subsec. (d). Pub. L. 106-398 designated existing provisions as par. (1) and added par. (2).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective Jan. 1, 2022, with additional provisions for delayed implementation and applicability of existing law, see section 1801(d) of Pub. L. 116-283, set out as a note preceding section 3001 of this title.

##### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-398, § 1 [[div. A], title X, § 1081(b), (c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-284, provided that: