

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53709(c)	46 App.:1274(c)(1) (last sentence).	
53709(d)	46 App.:1274(i).	June 29, 1936, ch. 858, title XI, §1104A(i), as added Pub. L. 103-160, div. A, title XIII, §1356(3)(E), Nov. 30, 1993, 107 Stat. 1814.
53709(e)	46 App.:1274(b) (last 2 sentences).	

Subsections (a) and (d) are substituted for the source provisions for clarity and to eliminate unnecessary words.

Editorial Notes

REFERENCES IN TEXT

Section 509 of the Merchant Marine Act, 1936, referred to in subsec. (b)(2)(B), is section 509 of act June 29, 1936, ch. 858, 49 Stat. 1985, which is set out as a note under section 53101 of this title.

AMENDMENTS

2019—Subsec. (b)(3) to (6). Pub. L. 116-92 redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) and par. (6) which read as follows:

“(3) BARGES.—For a barge constructed without a construction-differential subsidy or for which the subsidy has been repaid, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

“(6) ELIGIBLE EXPORT VESSELS.—For an eligible export vessel, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.”

2008—Pub. L. 110-181, §3522(b), repealed Pub. L. 109-163, §3507(a)(1)(C), (D). See 2006 Amendment note below.

Subsecs. (a)(1), (b)(1), (2)(A), (d). Pub. L. 110-181, §3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(C), (D), into this section by inserting “or Administrator” after “Secretary”. See 2006 Amendment note below and section 18(a) of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109-163, §3507(a)(1)(C), (D), which directed the amendment of sections 1273(c) and 1274(b)(2), (c)(1), (i) of the former Appendix to this title from which this section was derived in part, was repealed by Pub. L. 110-181, §3522(b). See 2008 Amendment note for subsecs. (a)(1), (b)(1), (2)(A), (d) and Historical and Revision notes above.

§ 53710. Contents of obligations

(a) IN GENERAL.—An obligation guaranteed under this chapter must—

(1) provide for payments by the obligor satisfactory to the Secretary or Administrator;

(2) provide for interest (exclusive of guarantee fees and other fees) at a rate not more than the annual rate on the unpaid principal that the Secretary or Administrator determines is reasonable, considering the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary or Administrator;

(3) have a maturity date satisfactory to the Secretary or Administrator, but—

(A) not more than 25 years after the date of delivery of the vessel used as security for the guarantee; or

(B) if the vessel has been reconstructed or reconditioned, not more than the later of—

(i) 25 years after the date of delivery of the vessel; or

(ii) the remaining years of useful life of the vessel as determined by the Secretary or Administrator; and

(4) provide, or a related agreement must provide, that if the vessel used as security for the guarantee is a delivered vessel, the vessel shall be—

(A) in class A-1, American Bureau of Shipping, or meet other standards acceptable to the Secretary or Administrator, with all required certificates, including marine inspection certificates of the Coast Guard, and with all outstanding requirements and recommendations necessary for class retention accomplished, unless the Secretary or Administrator permits a deferment of repairs necessary to meet these requirements;

(B) well equipped, in good repair, and in every respect seaworthy and fit for service; and

(C) documented under the laws of the United States for the term of the guarantee of the obligation or until the obligation is paid in full, whichever is sooner.

(b) PROVISIONS FOR CERTAIN PASSENGER VESSELS.—

(1) IN GENERAL.—With the Administrator's approval, if the vessel used as security for the guarantee is a passenger vessel having the tonnage, speed, passenger accommodations, and other characteristics described in section 503 of the Merchant Marine Act, 1936, an obligation guaranteed under this chapter or a related agreement may provide that—

(A) the only recourse by the United States Government against the obligor for payments under the guarantee will be repossession of the vessel and assignment of insurance claims; and

(B) the obligor's liability for payments under the guarantee will be satisfied and discharged by the surrender of the vessel and all interest in the vessel to the Government in the condition described in paragraph (2).

(2) SURRENDER OF VESSEL.—

(A) IN GENERAL.—On surrender, the vessel must be—

(i) free and clear of all liens and encumbrances except the security interest conveyed to the Administrator under this chapter;

(ii) in class; and

(iii) in as good order and condition (ordinary wear and tear excepted) as when acquired by the obligor.

(B) COVERING DEFICIENCIES BY INSURANCE.—To the extent covered by insurance, a deficiency related to a requirement in subparagraph (A) may be satisfied by assignment of the obligor's insurance claims to the Government.

(c) OTHER PROVISIONS TO PROTECT SECURITY INTERESTS AND PROVIDE FOR THE FINANCIAL STABILITY OF THE OBLIGOR.—An obligation guaranteed under this chapter and any related agreement must contain other provisions, which shall include—

(1) provisions for the protection of the security interests of the Government (including

acceleration, assumption, and subrogation provisions and the issuance of notes by the obligor to the Secretary or Administrator), liens and releases of liens, payment of taxes; and

(2) any other provisions that the Secretary or Administrator may prescribe.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1610; Pub. L. 109–163, div. C, title XXXV, § 3507(a)(1)(D), (2)(C), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110–181, div. C, title XXXV, § 3522(a)(5), (9)(A), (10)(B), (b), Jan. 28, 2008, 122 Stat. 598; Pub. L. 116–92, div. C, title XXXV, § 3506(g), Dec. 20, 2019, 133 Stat. 1972.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53710(a)(1) ..	46 App.:1274(b)(4).	June 29, 1936, ch. 858, title XI, § 1104A(b)(3)–(7), (h) [§ 1104A formerly § 1104], as added June 23, 1938, ch. 600, § 46, 52 Stat. 970; Aug. 4, 1939, ch. 417, § 14, 53 Stat. 1187; Sept. 28, 1950, ch. 1093, § 4, 64 Stat. 1078; Aug. 15, 1953, ch. 513, § 2, 67 Stat. 626; Sept. 3, 1954, ch. 1265, § 4, 68 Stat. 1269; Pub. L. 86–123, § 1(3), 2, July 31, 1959, 73 Stat. 269, 271; Pub. L. 86–127, § 1(3), (4), July 31, 1959, 73 Stat. 273; Pub. L. 86–518, § 1, June 12, 1960, 74 Stat. 216; Pub. L. 86–685, §§ 2, 3, Sept. 2, 1960, 74 Stat. 733; Pub. L. 90–341, June 15, 1968, 82 Stat. 180; Pub. L. 91–469, §§ 31, 32, Oct. 21, 1970, 84 Stat. 1035; restated Pub. L. 92–507, § 3, Oct. 19, 1972, 86 Stat. 911, 914; Pub. L. 97–31, § 12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 98–595, § 1(7), Oct. 30, 1984, 98 Stat. 3131; § 1104 renumbered as § 1104A, Pub. L. 101–380, title IV, § 4115(f)(1), Aug. 18, 1990, 104 Stat. 521; Pub. L. 103–160, title XIII, § 1356(3)(C), Nov. 30, 1993, 107 Stat. 1813.
53710(a)(2) ..	46 App.:1274(b)(5).	
53710(a)(3) ..	46 App.:1274(b)(3).	
53710(a)(4) ..	46 App.:1274(b)(6).	
53710(b)	46 App.:1274(b)(7).	
53710(c)	46 App.:1274(h).	

During review of this bill, the American Bureau of Shipping, through counsel, explained that it disagrees with an existing interpretation by the Maritime Administration of language restated in subsection (a)(4)(A) of this section, and requested the Committee to clarify that this codification should not be construed as a ratification of that regulatory interpretation. The Committee therefore states that this codification should not be construed as an expression of any opinion whatsoever concerning any such administrative interpretation.

In subsection (a)(3), the words “subject to the provisions of paragraph (2) of subsection (c) of this section” are omitted as unnecessary.

In subsection (a)(4)(B), the words “well equipped, in good repair, and in every respect seaworthy and fit for service” are substituted for “tight, stanch, strong, and well and sufficiently tackled, appareled, furnished, and equipped, and in every respect seaworthy and in good running condition and repair, and in all respects fit for service” to eliminate unnecessary words.

In subsection (b)(1), the reference to section 503 of the Merchant Marine Act, 1936, is substituted for the reference to “subchapter V of this chapter” because the relevant characteristics referred to in the text are contained in that section and because that section is part of the construction-differential subsidy program, which is not being restated.

Editorial Notes

REFERENCES IN TEXT

Section 503 of the Merchant Marine Act, 1936, referred to in subsec. (b)(1), is section 503 of act June 29, 1936, ch. 858, 49 Stat. 1985, which is set out as a note under section 53101 of this title.

AMENDMENTS

2019—Subsec. (a)(4)(A). Pub. L. 116–92, § 3506(g)(1)(A)(i), struck out “or, in the case of an eligible export vessel, of the appropriate foreign authorities under a treaty, convention, or other international agreement to which the United States is a party” after “certificates of the Coast Guard”.

Subsec. (a)(4)(C). Pub. L. 116–92, § 3506(a)(1)(A)(ii)–(C), added subpar. (C).

Subsec. (c). Pub. L. 116–92, § 3506(g)(2), in heading, inserted “and Provide for the Financial Stability of the Obligor” after “Interests” and, in text, inserted “provisions, which shall include—” after “must contain other” and par. (1) designation before “provisions for the protection of”, substituted “; and” for “, and other matters that the Secretary or Administrator may prescribe.”, and added par. (2).

2008—Pub. L. 110–181, § 3522(b), repealed Pub. L. 109–163, § 3507(a)(1)(D), (2)(C). See 2006 Amendment note below.

Subsec. (a). Pub. L. 110–181, § 3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109–163, § 3507(a)(1)(D), into this section by inserting “or Administrator” after “Secretary” wherever appearing. See 2006 Amendment note below and section 18(a) of Pub. L. 109–304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

Subsec. (b). Pub. L. 110–181, § 3522(a)(5), (9)(A), incorporated the substance of the amendment by Pub. L. 109–163, § 3507(a)(2)(C), into this section by substituting “Administrator’s” for “Secretary’s” in introductory provisions of par. (1) and “Administrator” for “Secretary” in par. (2)(A)(i). See 2006 Amendment note below and section 18(a) of Pub. L. 109–304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

Subsec. (c). Pub. L. 110–181, § 3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109–163, § 3507(a)(1)(D), into this section by inserting “or Administrator” after “Secretary” in two places. See 2006 Amendment note below and section 18(a) of Pub. L. 109–304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

2006—Pub. L. 109–163, § 3507(a)(1)(D), (2)(C), which directed the amendment of section 1274(b)(3)–(7), (h) of the former Appendix to this title from which this section was derived, was repealed by Pub. L. 110–181, § 3522(b). See 2008 Amendment notes for subsecs. (a), (b), and (c) and Historical and Revision notes above.

§ 53711. Security interest

(a) IN GENERAL.—The Secretary or Administrator may guarantee an obligation under this chapter only if the obligor conveys or agrees to convey to the Secretary or Administrator a security interest the Secretary or Administrator considers necessary to protect the interest of the United States Government.

(b) MULTIPLE VESSELS AND TYPES OF SECURITY.—The security interest may relate to more than one vessel and may consist of more than one type of security. If the security interest relates to more than one vessel, the obligation may have the latest maturity date allowable under section 53710(a)(3) of this title for any of the vessels used as security for the guarantee. However, the Secretary or Administrator may require such payments of principal prior to maturity, with respect to all related obligations, as