

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 L. 110–181, §3522(b), repealed Pub.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

the Secretary or Administrator considers necessary to maintain adequate security for the guarantee.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1612; Pub. L. 109–163, div. C, title XXXV, §3507(a)(1)(C), (D), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110–181, div. C, title XXXV, §3522(a)(10)(B), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53711(a)	46 App.:1273(b).	June 29, 1936, ch. 858, title XI, §1103(b), as added June 23, 1938, ch. 600, §46, 52 Stat. 969; Aug. 15, 1953, ch. 513, §1, 67 Stat. 626; Sept. 3, 1954, ch. 1265, §3, 68 Stat. 1268; June 25, 1956, ch. 438, 70 Stat. 332; Aug. 7, 1956, ch. 1026, §1(a), (c), (d), 70 Stat. 1087; Pub. L. 91–469, §30, Oct. 21, 1970, 84 Stat. 1035; restated Pub. L. 92–507, §3, Oct. 19, 1972, 86 Stat. 910; Pub. L. 97–31, §12(136), Aug. 6, 1981, 95 Stat. 166.
53711(b)	46 App.:1274(c)(1) (1st sentence), (2).	June 29, 1936, ch. 858, title XI, §1104A(c)(1) (1st sentence), (2) [§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. 912; Pub. L. 97–31, §12(136), Aug. 6, 1981, 95 Stat. 166; §1104 renumbered as §1104A, Pub. L. 101–380, title IV, §4115(f)(1), Aug. 18, 1990, 104 Stat. 521.

In subsection (a), the words “a security interest the Secretary considers necessary” are substituted for “such security interest, which may include a mortgage or mortgages on a vessel or vessels, as the Secretary may reasonably require” to eliminate unnecessary words.

Editorial Notes

AMENDMENTS

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 L. 110–181, §3522(b), repealed Pub.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

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” 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.

2006—Pub. L. 109–163, §3507(a)(1)(C), (D), which directed the amendment of sections 1273(b) and 1274(c) 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 notes and Historical and Revision notes above.

§ 53712. Monitoring financial condition and operations of obligor

(a) **IN GENERAL.**—The Secretary or Administrator shall monitor the financial condition and operations of the obligor on a regular basis during the term of the guarantee. The Secretary or Administrator shall document the results of the monitoring on an annual or quarterly basis depending on the condition of the obligor. If the Secretary or Administrator determines that the financial condition of the obligor warrants additional protections to the Secretary or Administrator, the Secretary or Administrator shall take appropriate action under subsection (b). If the Secretary or Administrator determines that the financial condition of the obligor jeopardizes its continued ability to perform its responsibilities in connection with the guarantee of an obligation by the Secretary or Administrator, the Secretary or Administrator shall make an immediate determination whether default should take place and whether further measures described in subsection (b) should be taken to protect the interests of the Secretary or Administrator while ensuring that program objectives are met.

(b) **CONTRACT PROVISIONS TO PROTECT SECRETARY OR ADMINISTRATOR.**—The Secretary or Administrator shall include provisions in a loan agreement with an obligor that provides additional authority to the Secretary or Administrator to take action to limit potential losses in connection with a defaulted loan or a loan that is in jeopardy due to the deteriorating financial condition of the obligor. If the Secretary or Administrator has waived a requirement under section 53707(d) of this title, the loan agreement shall include requirements for additional payments, collateral, or equity contributions to meet the waived requirement upon the occurrence of verifiable conditions indicating that the obligor's financial condition enables the obligor to meet the waived requirement.

(Pub. L. 109-304, § 8(c), Oct. 6, 2006, 120 Stat. 1612; Pub. L. 109-163, div. C, title XXXV, § 3507(a)(1)(D), (b)(6), Jan. 6, 2006, 119 Stat. 3555, 3556; Pub. L. 110-181, div. C, title XXXV, § 3522(a)(6), (10)(B), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53712(a)	46 App.:1274(k).	June 29, 1936, ch. 858, title XI, § 1104A(k), (m), as added Pub. L. 108-136, title XXXV, § 3523, Nov. 24, 2003, 117 Stat. 1800.
53712(b)	46 App.:1274(m).	

Editorial Notes

AMENDMENTS

2008—Pub. L. 110-181, § 3522(b), repealed Pub. L. 109-163, § 3507(a)(1)(D), (b)(6). See 2006 Amendment note below.

Pub. L. 110-181, § 3522(a)(6), (10)(B), incorporated the substance of the amendment by Pub. L. 109-163, § 3507(a)(1)(D), (b)(6), into this section by inserting “or Administrator” after “Secretary” wherever appearing and substituting “If the Secretary or Administrator has waived a requirement under section 53707(d) of this

title, the loan agreement shall include requirements for additional payments, collateral, or equity contributions to meet the waived requirement upon the occurrence of verifiable conditions indicating that the obligor's financial condition enables the obligor to meet the waived requirement.” for “These provisions include requirements for additional collateral or greater equity contributions that are effective upon the occurrence of verifiable conditions relating to the obligor's financial condition or the status of the vessel or shipyard project.” 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), (b)(6), which directed the amendment of section 1274(k), (m) 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 and Historical and Revision notes above.

§ 53713. Administrative fees

(a) **IN GENERAL.**—The Secretary or Administrator shall charge and collect from the obligor fees the Secretary or Administrator considers reasonable for processing the application and monitoring the loan guarantee, including for—

- (1) investigating an application for a guarantee;
- (2) appraising property offered as security for a guarantee;
- (3) issuing a commitment;
- (4) providing services related to an escrow fund under section 53715 of this title or a deposit fund under section 53716 of this title;
- (5) inspecting property during construction, reconstruction, or reconditioning; and
- (6) monitoring and providing services related to the obligor's compliance with any terms related to the obligations, the guarantee, or maintenance of the Secretary or Administrator's security interests under this chapter.

(b) **TOTAL FEE LIMITATION.**—The total fees under subsection (a) may not exceed 0.5 percent of the original principal amount of the obligations to be guaranteed.

(c) **FEEES FOR INDEPENDENT ANALYSIS.**—

(1) **IN GENERAL.**—The Secretary or Administrator may charge and collect fees to cover the costs of independent analysis under section 53703(c) of this title. Notwithstanding section 3302 of title 31, any fee collected under this subsection shall—

(A) be credited as an offsetting collection to the account that finances the administration of the loan guarantee program;

(B) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

(C) remain available until expended.

(2) **FEE LIMITATION INAPPLICABLE.**—Fees collected under this subsection are not subject to the limitation of subsection (b).

(Pub. L. 109-304, § 8(c), Oct. 6, 2006, 120 Stat. 1612; Pub. L. 109-163, div. C, title XXXV, § 3507(a)(1)(D), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110-181, div. C, title XXXV, § 3522(a)(10)(B), (b), Jan. 28, 2008, 122 Stat. 598; Pub. L. 116-92, div. C, title XXXV, § 3506(h), Dec. 20, 2019, 133 Stat. 1973.)