

**§ 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.)