

Editorial Notes

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (a), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

AMENDMENTS

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 L. 110-181, §3522(b), repealed Pub.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

Subsec. (b). Pub. L. 110-181, §3522(a)(9)(B), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(B), (D), (c)(2), into this section by substituting “Administrator” for “Secretary of Transportation” wherever appearing in heading and text. 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.

Subsecs. (c), (d). Pub. L. 110-181, §3522(a)(7), struck out “of Commerce” after “Secretary” wherever appearing in headings and text.

2006—Pub. L. 109-163, §3507(a)(1)(B), (D), (c)(2), which directed the amendment of sections 1272, 1274(g), and 1280 of the former Appendix to this title from which this section was derived, was repealed by Pub.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 note for subsec. (b) and Historical and Revision notes above.

§ 53718. Annual report to Congress

The Administrator shall report to Congress annually on the loan guarantee program under this chapter. Each report shall include—

- (1) the size, in dollars, of the portfolio of loans guaranteed;
- (2) the size, in dollars, of projects in the portfolio facing financial difficulties;
- (3) the number and type of projects covered;
- (4) a profile of pending loan applications;
- (5) the amount of appropriations available for new guarantees;
- (6) a profile of each project approved since the last report; and
- (7) a profile of any defaults since the last report.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1617; Pub. L. 109-163, div. C, title XXXV, §3507(c)(3), Jan. 6, 2006, 119 Stat. 3556; Pub. L. 110-181, div. C, title XXXV, §3522(a)(9)(C), (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>
53718	46 App.:1280b.	Pub. L. 108-136, title XXXV, §3527, Nov. 24, 2003, 117 Stat. 1802.

Editorial Notes

AMENDMENTS

2008—Pub. L. 110-181, §3522(b), repealed Pub. L. 109-163, §3507(c)(3). See 2006 Amendment note below.

Pub. L. 110-181, §3522(a)(9)(C), incorporated the substance of the amendment by Pub. L. 109-163, §3507(c)(3), into this section by substituting “Administrator” for “Secretary of Transportation” in introductory provisions. 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(c)(3), which directed the amendment of section 1280b 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.

§ 53719. Best practices

The Secretary or Administrator shall ensure that all standard documents and agreements that relate to loan guarantees made pursuant to this chapter are reviewed and updated every four years to ensure that such documents and agreements meet the current commercial best practices to the extent permitted by law.

(Added Pub. L. 116-92, div. C, title XXXV, §3506(i)(1), Dec. 20, 2019, 133 Stat. 1973.)

SUBCHAPTER II—DEFAULT PROVISIONS

§ 53721. Rights of obligee

(a) DEMANDS BY OBLIGEES.—Except as provided in subsection (c), if an obligor has continued in default for 30 days in the payment of principal or interest on an obligation guaranteed under this chapter, the obligee or the obligee’s agent may demand that the Secretary or Administrator pay the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. The demand must be made within the earlier of—

- (1) a period that may be specified in the guarantee or a related agreement; or
- (2) 90 days from the date of the default.

(b) PAYMENTS BY SECRETARY OR ADMINISTRATOR.—

(1) IN GENERAL.—If a demand is made under subsection (a), the Secretary or Administrator shall pay to the obligee or the obligee’s agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

- (A) a period that may be specified in the guarantee or a related agreement; or
- (B) 30 days from the date of the demand.

(2) IF NO EXISTING DEFAULT.—The Secretary or Administrator is not required to make payment under this subsection if, within the appropriate period under paragraph (1), the Secretary or Administrator finds that the obligor was not in default or that the default was remedied before the demand.

(c) ASSUMPTION OF RIGHTS AND OBLIGATIONS BEFORE DEMAND.—An obligee or the obligee’s agent may not demand payment under this section if the Secretary or Administrator, before the demand and on terms that may be provided in the obligation or a related agreement, has assumed the obligor’s rights and duties under the obligation and any related agreement and made any payment in default. However, the guarantee of the obligation remains in effect after the Secretary’s or Administrator’s assumption.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1617; Pub. L. 109-163, div. C, title XXXV, §3507(a)(1)(C), (F), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110-181, div. C, title XXXV, §3522(a)(10)(B), (11), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53721(a)	46 App.:1275(a) (1st sentence less parenthetical).	June 29, 1936, ch. 858, title XI, §1105(a), as added June 23, 1938, ch. 600, §46, 52 Stat. 971; Aug. 15, 1953, ch. 513, §3, 67 Stat. 626; Sept. 3, 1954, ch. 1265, §5, 68 Stat. 1272; Aug. 7, 1956, ch. 1026, §1(e)-(g), 70 Stat. 1087; Pub. L. 85-520, July 15, 1958, 72 Stat. 358; Pub. L. 91-469, §33, Oct. 21, 1970, 84 Stat. 1035; restated Pub. L. 92-507, §3, Oct. 19, 1972, 86 Stat. 914; Pub. L. 97-31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 98-595, §1(8), Oct. 30, 1984, 98 Stat. 3131.
53721(b)(1) ..	46 App.:1275(a) (last sentence less proviso).	
53721(b)(2) ..	46 App.:1275(a) (last sentence proviso).	
53721(c)	46 App.:1273(e) (last sentence).	June 29, 1936, ch. 858, title XI, §1103(e) (last sentence), as added Pub. L. 98-595, §1(1), Oct. 30, 1984, 98 Stat. 3130.
	46 App.:1275(a) (1st sentence parenthetical).	

Editorial Notes

AMENDMENTS

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

Pub. L. 110-181, §3522(a)(10)(B), (11), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(C), (F), into this section by inserting “or Administrator” after “Secretary” wherever appearing and “or Administrator’s” after “Secretary’s” in subsec. (c). 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), (F), which directed the amendment of sections 1273(e) and 1275(a) 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.

§ 53722. Actions by Secretary or Administrator

(a) GENERAL AUTHORITY.—On default under an obligation or related agreement between the Secretary or Administrator and the obligor, the Secretary or Administrator, on terms that may be provided in the obligation or agreement, may—

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

(2) notify the obligee or the obligee’s agent of the default.

(b) DEMANDS BY OBLIGEEES.—

(1) DEMAND.—If the Secretary or Administrator proceeds under subsection (a)(2), the obligee or the obligee’s agent may demand that the Secretary or Administrator pay the unpaid principal amount of the obligation and the unpaid interest on the obligation. The demand must be made within the earlier of—

(A) a period that may be specified in the guarantee or a related agreement; or

(B) 60 days from the date of the Secretary’s or Administrator’s notice.

(2) PAYMENT.—If a demand is made under paragraph (1), the Secretary or Administrator shall pay to the obligee or the obligee’s agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

(A) a period that may be specified in the guarantee or a related agreement; or

(B) 30 days from the date of the demand.

(c) CONTINUED EFFECT OF GUARANTEE.—A guarantee of an obligation remains in effect after an assumption of the obligation by the Secretary or Administrator.

(d) ADDITIONAL RESPONSES.—If there is a default on an obligation, the Secretary or Administrator shall conduct operations under this chapter in a manner that—

(1) maximizes the net present value return from the sale or disposition of assets associated with the obligation, including prompt referral to the Attorney General for collection as appropriate;

(2) minimizes the amount of any loss realized in the resolution of the guarantee;

(3) ensures adequate competition and fair and consistent treatment of offerors; and

(4) requires appraisal of assets by an independent appraiser.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1618; Pub. L. 109-163, div. C, title XXXV, §3507(a)(1)(C), (F), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110-181, div. C, title XXXV, §3522(a)(10)(B), (11), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53722(a), (b)	46 App.:1275(b).	June 29, 1936, ch. 858, title XI, §1105(b), as added June 23, 1938, ch. 600, §46, 52 Stat. 971; Aug. 15, 1953, ch. 513, §3, 67 Stat. 626; Sept. 3, 1954, ch. 1265, §5, 68 Stat. 1272; Aug. 7, 1956, ch. 1026, §1(e)-(g), 70 Stat. 1087; Pub. L. 85-520, July 15, 1958, 72 Stat. 358; Pub. L. 91-469, §33, Oct. 21, 1970, 84 Stat. 1035; restated Pub. L. 92-507, §3, Oct. 19, 1972, 86 Stat. 914; Pub. L. 97-31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 98-595, §1(9), Oct. 30, 1984, 98 Stat. 3131.
53722(c)	46 App.:1273(e) (last sentence).	June 29, 1936, ch. 858, title XI, §1103(e) (last sentence), as added Pub. L. 98-595, §1(1), Oct. 30, 1984, 98 Stat. 3130.
53722(d)	46 App.:1275(f).	June 29, 1936, ch. 858, title XI, §1105(f), as added Pub. L. 108-136, title XXXV, §3524, Nov. 24, 2003, 117 Stat. 1801.

In subsection (a), before paragraph (1), the words “an obligation or related agreement” are substituted for “a mortgage, loan agreement, or other security agreement” for consistency in the revised chapter.

Editorial Notes

AMENDMENTS

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

Pub. L. 110-181, 3522(a)(10)(B), (11), incorporated the substance of the amendment by Pub. L. 109-163,