

under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The Secretary or Administrator may require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place.

(e) DISBURSEMENT ON TERMINATION OF AGREEMENT.—

(1) IN GENERAL.—If a payment has not become due under the guarantee before the termination of the escrow agreement, the balance of the escrow fund at the time of termination shall be disbursed to—

(A) prepay the excess of—

(i) the principal amount of all obligations whose proceeds are to be used to finance the construction, reconstruction, or reconditioning of the vessel used or to be used as security for the guarantee; over

(ii) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the actual cost of the vessel to the extent paid; and

(B) pay interest on that prepaid amount of principal.

(2) REMAINING BALANCE.—Any remaining balance of the escrow fund shall be paid to the obligor.

(f) INVESTMENT.—The Secretary or Administrator may invest and reinvest any part of an escrow fund in obligations of the United States Government with maturities such that the escrow fund will be available as required for purposes of the escrow agreement. Investment income shall be paid to the obligor when received.

(g) TERMS TO PROTECT GOVERNMENT.—The escrow agreement shall contain other terms the Secretary or Administrator considers necessary to protect fully the interests of the Government.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1614; Pub. L. 109–163, div. C, title XXXV, §3507(a)(1)(H), (3), 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)   |
|-----------------|----------------------------------|--|
| 53715(a) .....  | 46 App.:1279a(a) (less proviso). | June 29, 1936, ch. 858, title XI, §1108, formerly §1111, as added Pub. L. 86–127, §1(2), July 31, 1959, 73 Stat. 272; renumbered Pub. L. 92–507, §5, Oct. 19, 1972, 86 Stat. 916; Pub. L. 97–31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 108–136, title XXXV, §3521(a), Nov. 24, 2003, 117 Stat. 1799. |
| 53715(b) .....  | 46 App.:1279a(a) (proviso)       |  |
| 53715(c) .....  | 46 App.:1279a(b).                |  |
| 53715(d) .....  | 46 App.:1279a(g).                |  |
| 53715(e) .....  | 46 App.:1279a(c).                |  |
| 53715(f) .....  | 46 App.:1279a(d), (e).           |  |
| 53715(g) .....  | 46 App.:1279a(f).                |  |

AMENDMENTS

2008—Pub. L. 110–181, §3522(b), repealed Pub. L. 109–163, §3507(a)(1)(H), (3). 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)(H), (3), into this section by inserting “or Administrator” after “Secretary” wherever appearing and “or Administrator’s” after “Secretary’s” in subsec. (d)(1). 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)(H), (3), which directed the amendment of section 1279a 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.

§ 53716. Deposit fund

(a) IN GENERAL.—There is a deposit fund in the Treasury for purposes of this section. The Secretary or Administrator, in accordance with an agreement under subsection (b), may deposit into and hold in the fund cash belonging to an obligor to serve as collateral for a guarantee made under this chapter with respect to the obligor.

(b) AGREEMENT.—The Secretary or Administrator and an obligor shall make a reserve fund or other collateral account agreement to govern the deposit, withdrawal, retention, use, and reinvestment of cash of the obligor held in the fund. The agreement shall contain—

(1) terms and conditions required by this section;

(2) terms that grant to the United States Government a security interest in all amounts deposited into the fund; and

(3) any additional terms considered by the Secretary or Administrator to be necessary to protect fully the interests of the Government.

(c) INVESTMENT.—The Secretary or Administrator may invest and reinvest any part of the amounts in the fund in obligations of the Government with maturities such that amounts in the fund will be available as required for purposes of the agreement under subsection (b). Cash balances in the fund in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

(d) WITHDRAWALS.—

(1) IN GENERAL.—Cash deposited into the fund may not be withdrawn without the consent of the Secretary or Administrator.

(2) USE OF INCOME.—Subject to paragraph (3), the Secretary or Administrator may pay any income earned on cash of an obligor deposited into the fund in accordance with the agreement with the obligor under subsection (b).

(3) RETENTION AGAINST DEFAULT.—The Secretary or Administrator may retain and offset any or all of the cash of an obligor in the fund, and any income realized thereon, as part of the Secretary’s or Administrator’s recovery against the obligor in case of a default by the obligor on an obligation.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1616; Pub. L. 109–163, div. C, title XXXV, §3507(a)(1)(H), (3), 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)  |
|-----------------|--------------------|---|
| 53716 .....     | 46 App.:1279b.     | June 29, 1936, ch. 858, title XI, §1109, as added Pub. L. 107-107, title XXXV, § 3503, Dec. 28, 2001, 115 Stat. 1392. |

In subsection (a), the word “established” is omitted for consistency with other codified titles of the United States Code.

AMENDMENTS

2008—Pub. L. 110-181, §3522(b), repealed Pub. L. 109-163, §3507(a)(1)(H), (3). 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)(H), (3), into this section by inserting “or Administrator” after “Secretary” wherever appearing, except the second place appearing in subsec. (c), and inserting “or Administrator’s” after “Secretary’s” in subsec. (d)(3). 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)(H), (3), which directed the amendment of section 1279b 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.

§ 53717. Management of funds in the Treasury

(a) DEFINITION.—In this section, the term “FCRA” means the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(b) LOAN GUARANTEES BY ADMINISTRATOR.—

(1) WHEN NOT SUBJECT TO FCRA.—The Administrator shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in an account in the Treasury entitled the Federal Ship Financing Fund Liquidating Account (a liquidating account as defined in FCRA).

(2) WHEN SUBJECT TO FCRA.—The Administrator shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury entitled the Federal Ship Financing Guaranteed Loan Financing Account (a financing account as defined in FCRA).

(c) LOAN GUARANTEES BY SECRETARY.—

(1) WHEN NOT SUBJECT TO FCRA.—The Secretary shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in a separate account in the Treasury established for this purpose.

(2) WHEN SUBJECT TO FCRA.—The Secretary shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury established for this purpose.

(d) DIRECT LOANS BY SECRETARY.—The Secretary shall account for payments and disburse-

ments involving direct loans made under this chapter in a separate account in the Treasury established for this purpose.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1616; Pub. L. 109-163, div. C, title XXXV, §3507(a)(1)(B), (D), (c)(2), Jan. 6, 2006, 119 Stat. 3555, 3556; Pub. L. 110-181, div. C, title XXXV, §3522(a)(7), (9)(B), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large)   |
|-----------------|--------------------|--|
| 53717 .....     | 46 App.:1272.      | June 29, 1936, ch. 858, title XI, §1102, as added June 23, 1938, ch. 600, §46, 52 Stat. 969; Sept. 3, 1954, ch. 1265, §2, 68 Stat. 1268; Pub. L. 86-123, §1(2), July 31, 1959, 73 Stat. 269; Pub. L. 92-507, §2, Oct. 19, 1972, 86 Stat. 910; Pub. L. 97-31, §12(136), Aug. 6, 1981, 95 Stat. 166.   |
|                 | 46 App.:1274(g).   | June 29, 1936, ch. 858, title XI, §1104A(g) (§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. 914; Pub. L. 96-561, title II, §220(3)(D), Dec. 22, 1980, 94 Stat. 3294; Pub. L. 97-31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 97-35, title XVI, §1606(d), Aug. 13, 1981, 95 Stat. 752; §1104 renumbered as §1104A, Pub. L. 101-380, title IV, §4115(f)(1), Aug. 18, 1990, 104 Stat. 521. |
|                 | 46 App.:1280.      | Pub. L. 85-469, title I, §101 (par. under heading “Federal Ship Mortgage Insurance Fund”), June 25, 1958, 72 Stat. 231; Pub. L. 97-31, §12(137), Aug. 6, 1981, 95 Stat. 166.   |

The Federal Ship Financing Fund which had been created by 46 App. U.S.C. 1272 is obsolete as a result of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.). This section codifies the current requirements and practices for the management of funds under this chapter, based on the requirements of that Act.

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