

would not otherwise be reasonably available at the time of the guarantee for the commercial reusable in-space transportation service or system to be produced utilizing the proceeds of the loan.

(d) CREDIT SUBSIDY.—

(1) COLLECTION REQUIRED.—The Secretary shall collect from each United States commercial provider receiving a loan guarantee under this section an amount equal to the amount, as determined by the Secretary, to cover the cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)), of the loan guarantee.

(2) PERIODIC DISBURSEMENTS.—In the case of a loan guarantee in which proceeds of the loan are disbursed over time, the Secretary shall collect the amount required under this subsection on a pro rata basis, as determined by the Secretary, at the time of each disbursement.

(e) OTHER TERMS AND CONDITIONS.—

(1) PROHIBITION ON SUBORDINATION.—A loan guaranteed under this section may not be subordinated to another debt contracted by the United States commercial provider concerned, or to any other claims against such provider.

(2) RESTRICTION ON INCOME.—A loan guaranteed under this section may not—

(A) provide income which is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.); or

(B) provide significant collateral or security, as determined by the Secretary, for other obligations the income from which is so excluded.

(3) TREATMENT OF GUARANTEE.—The guarantee of a loan under this section shall be conclusive evidence of the following:

(A) That the guarantee has been properly obtained.

(B) That the loan qualifies for the guarantee.

(C) That, but for fraud or material misrepresentation by the holder of the loan, the guarantee is valid, legal, and enforceable.

(4) OTHER TERMS AND CONDITIONS.—The Secretary may establish any other terms and conditions for a guarantee of a loan under this section as the Secretary considers appropriate to protect the financial interests of the United States.

(f) ENFORCEMENT OF RIGHTS.—

(1) IN GENERAL.—The Attorney General may take any action the Attorney General considers appropriate to enforce any right accruing to the United States under a loan guarantee under this section.

(2) FORBEARANCE.—The Attorney General may, with the approval of the parties concerned, forbear from enforcing any right of the United States under a loan guaranteed under this section for the benefit of a United States commercial provider if such forbearance will not result in any cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)), to the United States.

(3) UTILIZATION OF PROPERTY.—Notwithstanding any other provision of law and sub-

ject to the terms of a loan guaranteed under this section, upon the default of a United States commercial provider under the loan, the Secretary may, at the election of the Secretary—

(A) assume control of the physical asset financed by the loan; and

(B) complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell the physical asset.

(g) CREDIT INSTRUMENTS.—

(1) AUTHORITY TO ISSUE INSTRUMENTS.—Notwithstanding any other provision of law, the Secretary may, subject to such terms and conditions as the Secretary considers appropriate, issue credit instruments to United States commercial providers of in-space transportation services or systems, with the aggregate cost (as determined under the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)) of such instruments not to exceed \$1,500,000,000, but only to the extent that new budget authority to cover such costs is provided in subsequent appropriations Acts or authority is otherwise provided in subsequent appropriations Acts.

(2) CREDIT SUBSIDY.—The Secretary shall provide a credit subsidy for any credit instrument issued under this subsection in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(3) CONSTRUCTION.—The eligibility of a United States commercial provider of in-space transportation services or systems for a credit instrument under this subsection is in addition to any eligibility of such provider for a loan guarantee under other provisions of this section.

(Pub. L. 111-314, § 3, Dec. 18, 2010, 124 Stat. 3402.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
50302 .....	42 U.S.C. 14752.	Pub. L. 107-248, title IX, §903, Oct. 23, 2002, 116 Stat. 1574.

In subsection (f)(2), the word “forbear” is substituted for “forebear” to correct an error in the law.

In subsection (g)(1), the words “services or systems” are substituted for “services or system” to correct an error in the law.

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (g)(1), (2), 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.

CHAPTER 505—COMMERCIAL SPACE COMPETITIVENESS

Sec. 50501.	Definitions.
50502.	Launch voucher demonstration program.
50503.	Anchor tenancy and termination liability.
50504.	Use of Government facilities.
50505.	Test facilities.
50506.	Commercial Space Achievement Award.

**§ 50501. Definitions**

In this chapter:

(1) **AGENCY.**—The term “agency” means an executive agency as defined in section 105 of title 5.

(2) **ANCHOR TENANCY.**—The term “anchor tenancy” means an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable.

(3) **COMMERCIAL.**—The term “commercial” means having—

(A) private capital at risk; and

(B) primary financial and management responsibility for the activity reside with the private sector.

(4) **COST EFFECTIVE.**—The term “cost effective” means costing no more than the available alternatives, determined by a comparison of all related direct and indirect costs including, in the case of Government costs, applicable Government labor and overhead costs as well as contractor charges, and taking into account the ability of each alternative to accommodate mission requirements as well as the related factors of risk, reliability, schedule, and technical performance.

(5) **LAUNCH.**—The term “launch” means to place, or attempt to place, a launch vehicle and its payload, if any, in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space.

(6) **LAUNCH SERVICES.**—The term “launch services” means activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch.

(7) **LAUNCH SUPPORT FACILITIES.**—The term “launch support facilities” means facilities located at launch sites or launch ranges that are required to support launch activities, including launch vehicle assembly, launch vehicle operations and control, communications, flight safety functions, and payload operations, control, and processing.

(8) **LAUNCH VEHICLE.**—The term “launch vehicle” means any vehicle constructed for the purpose of operating in or placing a payload in outer space or in suborbital trajectories, and includes components of that vehicle.

(9) **PAYLOAD.**—The term “payload” means an object which a person undertakes to launch, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

(10) **PAYLOAD INTEGRATION SERVICES.**—The term “payload integration services” means activities involved in integrating multiple payloads into a single payload for launch or integrating a payload with a launch vehicle.

(11) **SPACE RECOVERY SUPPORT FACILITIES.**—The term “space recovery support facilities” means facilities required to support activities related to the recovery of payloads returned from space to a space recovery site, including operations and control, communications, flight safety functions, and payload processing.

(12) **SPACE TRANSPORTATION INFRASTRUCTURE.**—The term “space transportation infra-

structure” means facilities, associated equipment, and real property (including launch sites, launch support facilities, space recovery sites, and space recovery support facilities) required to perform launch or space recovery activities.

(13) **STATE.**—The term “State” means the several States, the District of Columbia, Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(14) **UNITED STATES.**—The term “United States” means the States, collectively.

(Pub. L. 111–314, § 3, Dec. 18, 2010, 124 Stat. 3404.)

## HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
50501 .....	15 U.S.C. 5802.	Pub. L. 102–588, title V, § 502, Nov. 4, 1992, 106 Stat. 5123.

## FINDINGS

Pub. L. 102–588, title V, § 501, Nov. 4, 1992, 106 Stat. 5122, provided that: “The Congress finds that—

“(1) commercial activities of the private sector have substantially contributed to the strength of both the United States space program and the national economy;

“(2) a robust United States space transportation capability remains a vital cornerstone of the United States space program;

“(3) the availability of commercial launch services is essential for the continued growth of the United States commercial space sector;

“(4) a timely extension of the excess third party claims payment provisions of the Commercial Space Launch Act [now 51 U.S.C. 50901 et seq.] is appropriate and necessary to enable the private sector to continue covering maximum probable liability risks while protecting the private sector from uninsurable levels of liability which could hinder international competitiveness;

“(5) a program to demonstrate how recipients of Federal grants can purchase launch services directly from the private sector has the potential to improve the capabilities of the United States commercial launch industry;

“(6) improvements and additions to the Nation’s space transportation infrastructure contribute to a robust and cost effective space transportation capability for both public sector and private sector users;

“(7) private sector use of available Government facilities on a reimbursable basis contributes to a stronger commercial space sector;

“(8) the Federal Government should purchase space goods and services which are commercially available, or could be made available commercially in response to a Government procurement request, whenever such goods or services meet Government mission requirements in a cost effective manner;

“(9) it is appropriate for the Government to act as an anchor tenant for commercial space development projects which have a reasonable potential to develop non-Federal markets and which meet Federal needs in a cost effective manner; and

“(10) the provision of compensation to commercial providers of space goods and services for termination of contracts at the convenience of the Government assists in enabling the private sector to invest in space activities which are initially dependent on Government purchases.”

[For definition of terms used in section 501 of Pub. L. 102–588, set out above, see section 502 of Pub. L. 102–588, title V, Nov. 4, 1992, 106 Stat. 5123, which was classified to former section 5802 of Title 15, Commerce and Trade,