

**CHAPTER 26A—INDEMNITY FOR EXHIBITIONS OF ARTS AND ARTIFACTS**

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**§ 971. Agreements to indemnify against loss or damage**

**(a) Authorization of Federal Council on the Arts and Humanities**

The Federal Council on the Arts and Humanities (hereinafter in this chapter referred to as the "Council"), established under section 958 of this title, is authorized to make agreements to indemnify against loss or damage such items as may be eligible for such indemnity agreements under section 972 of this title—

- (1) in accordance with the provisions of this chapter; and
- (2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purposes of this chapter and, consistent with such purposes, to protect the financial interest of the United States.

**(b) Council as "agency"**

- (1) For purposes of this chapter, the Council shall be an "agency" within the meaning of the appropriate definitions of such term in title 5.
- (2) For purposes of this chapter, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.

(Pub. L. 94-158, § 2, Dec. 20, 1975, 89 Stat. 844; Pub. L. 99-194, title III, § 301, Dec. 20, 1985, 99 Stat. 1345.)

**AMENDMENTS**

1985—Subsec. (b). Pub. L. 99-194 designated existing provisions as par. (1) and added par. (2).

**EFFECTIVE DATE**

Pub. L. 94-158, § 9, Dec. 20, 1975, 89 Stat. 846, provided that: "This Act [see Short Title note below] shall become effective 30 days after the date of the enactment of this Act [Dec. 20, 1975]."

**SHORT TITLE**

Pub. L. 94-158, § 1, Dec. 20, 1975, 89 Stat. 844, provided that: "This Act [enacting this chapter and provisions set out as a note under this section] may be cited as the 'Arts and Artifacts Indemnity Act'."

**§ 972. Items eligible for indemnity agreements**

**(a) Works of art; printed or published materials; other artifacts or objects; photographs, motion pictures, or tapes**

The Council may make an indemnity agreement under this chapter with respect to—

- (1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;

- (2) manuscripts, rare documents, books, and other printed or published materials;
- (3) other artifacts or objects; and
- (4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) in the case of international exhibitions, certified by the Secretary of State or his designee as being in the national interest.

**(b) Extension of coverage; "on exhibition" defined**

- (1) An indemnity agreement made under this chapter shall cover eligible items while on exhibition in the United States or elsewhere preferably when part of an exchange of exhibitions.
- (2) For purposes of this subsection, the term "on exhibition" includes that period of time beginning on the date the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender.

(Pub. L. 94-158, § 3, Dec. 20, 1975, 89 Stat. 844; Pub. L. 99-194, title III, § 302(a), Dec. 20, 1985, 99 Stat. 1345; Pub. L. 110-161, div. F, title IV, § 426(1), Dec. 26, 2007, 121 Stat. 2151.)

**AMENDMENTS**

- 2007—Subsec. (a). Pub. L. 110-161 substituted "(B) in the case of international exhibitions," for "(B) the exhibition of which is" in concluding provisions.
- 1985—Subsec. (b)(1). Pub. L. 99-194, which directed the substitution of "or elsewhere preferably when part of an exchange of exhibitions" for "or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exhibition be so covered" was executed by making the substitution for "or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exchange be so covered", to reflect the probable intent of Congress.

**EFFECTIVE DATE OF 1985 AMENDMENT**

Pub. L. 99-194, title III, § 302(b), Dec. 20, 1985, 99 Stat. 1345, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to any exhibition which is certified under section 3(a) of the Arts and Artifacts Indemnity Act [subsec. (a) of this section] after the date of enactment of this Act [Dec. 20, 1985]."

**§ 973. Application for indemnity agreements**

**(a) Parties**

Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this chapter shall make application therefor in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

**(b) Contents**

- An application under subsection (a) of this section shall—
  - (1) describe each item to be covered by the agreement (including an estimated value of such item);
  - (2) show evidence that the items are eligible under section 972(a) of this title; and
  - (3) set forth policies, procedures, techniques, and methods with respect to preparation for,

and conduct of, exhibition of the items, and any transportation related to such items.

**(c) Approval**

Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this chapter, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States.

(Pub. L. 94-158, § 4, Dec. 20, 1975, 89 Stat. 845.)

**§ 974. Indemnity limits**

**(a) Approval of estimated values**

Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 973 of this title, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this chapter, the Council shall, after approval of the application as provided in subsection (c) of section 973 of this title, make an indemnity agreement.

**(b) Maximum limits of coverage**

The aggregate of loss or damage covered by indemnity agreements made under this chapter shall not exceed \$15,000,000 at any one time for international exhibitions, and \$7,500,000 at any one time for domestic exhibitions.

**(c) Limit for single exhibition**

No indemnity agreement for a single exhibition shall cover loss or damage in excess of \$1,800,000 for international exhibitions, or \$1,000,000 for domestic exhibitions.

**(d) Deductible limit**

If the estimated value of the items covered by an indemnity agreement for a single exhibition is—

(1) \$2,000,000 or less, then coverage under this chapter shall extend only to loss or damage in excess of the first \$15,000 of loss or damage to items covered;

(2) more than \$2,000,000 but less than \$10,000,000 then coverage under this chapter shall extend only to loss or damage in excess of the first \$25,000 of loss or damage to items covered;

(3) not less than \$10,000,000 but less than \$125,000,000, then coverage under this chapter shall extend to loss or damage in excess of the first \$50,000 of loss or damage to items covered;

(4) not less than \$125,000,000 but less than \$200,000,<sup>1</sup> then coverage under this chapter shall extend to loss or damage in excess of the first \$100,000 of loss or damage to items covered;

(5) not less than \$200,000,000 but less than \$300,000,000, then coverage under the<sup>2</sup> chapter

shall extend only to loss or damage in excess of the first \$200,000, of loss or damage to items covered;

(6) not less than \$300,000,000 but less than \$400,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first \$300,000 of loss or damage to items covered;

(7) not less than \$400,000,000 but less than \$500,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first \$400,000 of loss or damage to items covered; or

(8) \$500,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first \$500,000 of loss or damage to items covered.

(Pub. L. 94-158, § 5, Dec. 20, 1975, 89 Stat. 845; Pub. L. 96-496, title III, §§ 301, 302, Dec. 4, 1980, 94 Stat. 2593; Pub. L. 99-194, title III, § 303, Dec. 20, 1985, 99 Stat. 1345; Pub. L. 100-202, § 101(g) [title II, § 201], Dec. 22, 1987, 101 Stat. 1329-213, 1329-249; Pub. L. 101-512, title III, § 318 [title III, § 301], Nov. 5, 1990, 104 Stat. 1960, 1976; Pub. L. 105-277, div. A, § 101(e) [title III, § 333], Oct. 21, 1998, 112 Stat. 2681-231, 2681-294; Pub. L. 108-81, title V, § 501, Sept. 25, 2003, 117 Stat. 1003; Pub. L. 109-54, title IV, § 427, Aug. 2, 2005, 119 Stat. 555; Pub. L. 110-161, div. F, title IV, § 426(2), (3), Dec. 26, 2007, 121 Stat. 2151; Pub. L. 113-235, div. F, title IV, § 416, Dec. 16, 2014, 128 Stat. 2448.)

AMENDMENTS

2014—Subsec. (b). Pub. L. 113-235, § 416(1), substituted “\$15,000,000,000” for “\$10,000,000,000” and “\$7,500,000,000” for “\$5,000,000,000”.

Subsec. (c). Pub. L. 113-235, § 416(2), substituted “\$1,800,000,000” for “\$1,200,000,000” and “\$1,000,000,000” for “\$750,000,000”.

2007—Subsec. (b). Pub. L. 110-161, § 426(2), inserted “for international exhibitions, and \$5,000,000,000 at any one time for domestic exhibitions” before period at end.

Subsec. (c). Pub. L. 110-161, § 426(3), inserted “for international exhibitions, or \$750,000,000 for domestic exhibitions” before period at end.

2005—Subsec. (b). Pub. L. 109-54, § 427(1), substituted “\$10,000,000,000” for “8,000,000,000”.

Subsec. (c). Pub. L. 109-54, § 427(2), substituted “\$1,200,000,000” for “\$600,000,000”.

2003—Subsec. (b). Pub. L. 108-81, § 501(1), substituted “\$8,000,000,000” for “\$5,000,000,000”.

Subsec. (c). Pub. L. 108-81, § 501(2), substituted “\$600,000,000” for “\$500,000,000”.

Subsec. (d)(7), (8). Pub. L. 108-81, § 501(3), added pars. (7) and (8) and struck out former par. (7) which read as follows: “\$400,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first \$400,000 of loss or damage to items covered.”

1998—Subsec. (b). Pub. L. 105-277, § 101(e) [title III, § 333(1)], substituted “\$5,000,000,000” for “\$3,000,000,000”.

Subsec. (c). Pub. L. 105-277, § 101(e) [title III, § 333(2)], substituted “\$500,000,000” for “\$300,000,000”.

Subsec. (d)(4). Pub. L. 105-277, § 101(e) [title III, § 333(3)], struck out “or” at end.

Subsec. (d)(5). Pub. L. 105-277, § 101(e) [title III, § 333(4)], substituted “not less than \$200,000,000 but less than \$300,000,000” for “\$200,000,000 or more” and substituted semicolon for period at end.

Subsec. (d)(6), (7). Pub. L. 105-277, § 101(e) [title III, § 333(5)], added pars. (6) and (7).

1990—Subsec. (b). Pub. L. 101-512, § 318 [title III, § 301(a)], substituted “\$3,000,000,000” for “\$1,200,000,000”.

Subsec. (c). Pub. L. 101-512, § 318 [title III, § 301(b)(1)], substituted “\$300,000,000” for “\$125,000,000”.

Subsec. (d)(3). Pub. L. 101-512, § 318 [title III, § 301(b)(2)(B)], amended par. (3) generally. Prior to

<sup>1</sup> So in original. Probably should be “\$200,000,000”.

<sup>2</sup> So in original. Probably should be “this”.