

§ 701g. Removal of obstructions; clearing channels

The Secretary of the Army is authorized to allot not to exceed \$7,500,000 from any appropriations heretofore or hereafter made for any one fiscal year for flood control, for removing accumulated snags and other debris, and clearing and straightening the channel in navigable streams and tributaries thereof, when in the opinion of the Chief of Engineers such work is advisable in the interest of flood control: *Provided*, That not more than \$500,000 shall be expended for this purpose for any single tributary from the appropriations for any one fiscal year.

(Aug. 28, 1937, ch. 877, § 2, 50 Stat. 877; Aug. 11, 1939, ch. 699, § 1, 53 Stat. 1414; Aug. 18, 1941, ch. 377, § 9, 55 Stat. 650; July 24, 1946, ch. 596, § 13, 60 Stat. 652; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Sept. 3, 1954, ch. 1264, title II, § 208, 68 Stat. 1266; Pub. L. 93-251, title I, § 26, Mar. 7, 1974, 88 Stat. 20; Pub. L. 99-662, title IX, § 915(b), Nov. 17, 1986, 100 Stat. 4191.)

AMENDMENTS

1986—Pub. L. 99-662 substituted “\$7,500,000” for “\$5,000,000” and “\$500,000” for “\$250,000”.

1974—Pub. L. 93-251 substituted “\$5,000,000” for “\$2,000,000” and “\$250,000” for “\$100,000”.

1954—Act Sept. 3, 1954, substituted “\$2,000,000” for “\$1,000,000” and “\$100,000” for “\$50,000”.

1946—Act July 24, 1946, substituted “\$1,000,000” for “\$500,000” and “\$50,000” for “\$25,000”.

1941—Act Aug. 18, 1941, substituted “\$500,000” for “\$300,000”.

1939—Act Aug. 11, 1939, authorized Secretary to allot instead of to approve amount for flood control and limited amount allotted instead of expended for any single tributary.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-662 not applicable to any project under contract for construction on Nov. 17, 1986, see section 915(i) of Pub. L. 99-662, set out as a note under section 426g of this title.

§ 701h. Contributions by States, political subdivisions, and other non-Federal interests

The Secretary of the Army is authorized to receive from States and political subdivisions thereof and other non-Federal interests, such funds as may be contributed by them for work, which includes planning and design, to be expended in connection with funds appropriated by the United States for any authorized water resources development study or project, including a project for navigation on the inland waterways, whenever such work and expenditure may be considered by the Secretary of the Army, on recommendation of the Chief of Engineers, as advantageous in the public interest, and the plans for any reservoir project may, in the discretion of the Secretary of the Army, on recom-

mendation of the Chief of Engineers, be modified to provide additional storage capacity for domestic water supply or other conservation storage, on condition that the cost of such increased storage capacity is contributed by local agencies and that the local agencies agree to utilize such additional storage capacity in a manner consistent with Federal uses and purposes: *Provided*, That the Secretary is authorized to receive and expend funds from a State or a political subdivision thereof, and other non-Federal interests or private entities, to operate a hurricane barrier project to support recreational activities at or in the vicinity of the project, at no cost to the Federal Government, if the Secretary determines that operation for such purpose is not inconsistent with the operation and maintenance of the project for the authorized purposes of the project: *Provided further*, That when contributions made by States and political subdivisions thereof and other non-Federal interests, are in excess of the actual cost of the work contemplated and properly chargeable to such contributions, such excess contributions may, with the approval of the Secretary of the Army, be returned to the proper representatives of the contributing interests: *Provided further*, That the term “States” means the several States, the District of Columbia, the commonwealths, territories, and possessions of the United States, and Federally recognized Indian tribes: *Provided further*, That the term “non-Federal interest” has the meaning given that term in section 1962d-5b of title 42.

(June 22, 1936, ch. 688, § 5 (part), 49 Stat. 1572; July 19, 1937, ch. 511, § 1, 50 Stat. 518; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 106-53, title II, § 203, Aug. 17, 1999, 113 Stat. 285; Pub. L. 112-74, div. B, title I, § 111(a), Dec. 23, 2011, 125 Stat. 858; Pub. L. 113-121, title I, § 1015(a), June 10, 2014, 128 Stat. 1222.)

CODIFICATION

When originally enacted, section 5 of act June 22, 1936, which consisted of a paragraph (including a proviso) authorizing works of improvement followed by numerous headings and paragraphs describing those authorized works, was not classified to the Code. Act July 19, 1937, amended section 5 of act June 22, 1936, by inserting two additional provisos at the end of the first paragraph. The provisos inserted by the 1937 Act, as amended, form the sole basis for the text appearing in this section, with minor editorial changes to the introductory language of the provisos. Subsequent amendments to section 5 of act June 22, 1936, have generally been directed to the text of section 5 as it has appeared in the Code and have not taken into account the portion of that section that has never been set out. Those amendments have been executed as directed, to reflect the probable intent of Congress, and amendment notes below reflect such execution without further comment.

AMENDMENTS

2014—Pub. L. 113-121, § 1015(a)(4), substituted “; *Provided further*, That the term ‘non-Federal interest’ has the meaning given that term in section 1962d-5b of title 42.” for period at end.

Pub. L. 113-121, § 1015(a)(3), substituted “*Provided*, That the Secretary is authorized to receive and expend funds from a State or a political subdivision thereof, and other non-Federal interests or private entities, to operate a hurricane barrier project to support recreational activities at or in the vicinity of the project, at no cost to the Federal Government, if the Secretary

determines that operation for such purpose is not inconsistent with the operation and maintenance of the project for the authorized purposes of the project: *Provided further*, That when” for “*Provided*, That when”.

Pub. L. 113-121, §1015(a)(1), (2), inserted “and other non-Federal interests” after “States and political subdivisions thereof” in two places and inserted “, including a project for navigation on the inland waterways,” after “study or project”.

2011—Pub. L. 112-74 substituted “water resources development study or project” for “flood control or environmental restoration work” and inserted “for work, which includes planning and design,” before “to be expended” and “: *Provided further*, That the term ‘States’ means the several States, the District of Columbia, the commonwealths, territories, and possessions of the United States, and Federally recognized Indian tribes” before period at end.

1999—Pub. L. 106-53 inserted “or environmental restoration” after “flood control”.

1937—Act July 19, 1937, inserted text of section.

CHANGE OF NAME

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NOTIFICATION FOR CONTRIBUTED FUNDS

Pub. L. 113-121, title I, §1015(b), June 10, 2014, 128 Stat. 1223, provided that: “Prior to accepting funds contributed under section 5 of the Act of June 22, 1936 (33 U.S.C. 701h), the Secretary [of the Army] shall provide written notice of the funds to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.”

§ 701h-1. Contributions by States and political subdivisions for immediate use on authorized flood-control work; repayment

Whenever any State or political subdivision thereof shall offer to advance funds for a flood-control project duly adopted and authorized by law the Secretary of the Army may in his discretion, receive such funds and expend the same in the immediate prosecution of such work. The Secretary of the Army is authorized and directed to repay without interest, from appropriations which may be provided by Congress for flood-control work, the moneys so contributed and expended: *Provided, however*, That no repayment of funds which may be contributed for the purpose of meeting any conditions of local cooperation imposed by Congress, or under the authority of section 701h of this title, shall be made.

(Oct. 15, 1940, ch. 884, 54 Stat. 1176; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

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§ 701i. Elimination from protection of areas subject to evacuation

In any case where the construction cost of levees or flood walls included in any authorized project can be substantially reduced by the evacuation of a portion or all of the area proposed to be protected and by the elimination of that portion or all of the area from the protection to be afforded by the project, the Chief of Engineers may modify the plan of said project so as to eliminate said portion or all of the area: *Provided*, That a sum not substantially exceeding the amount thus saved in construction cost may be expended by the Chief of Engineers, or in his discretion may be transferred to any other appropriate Federal agency for expenditure, toward the evacuation of the locality eliminated from protection and the rehabilitation of the persons so evacuated: *And provided further*, That the Chief of Engineers may, if he so desires, enter into agreement with States, local agencies, or the individuals concerned for the accomplishment by them, of such evacuation and rehabilitation and for their reimbursement from said sum for expenditures actually incurred by them for this purpose.

(June 28, 1938, ch. 795, §3, 52 Stat. 1216.)

§ 701j. Installation in dams of facilities for future development of hydroelectric power

Penstocks or other similar facilities adapted to possible future use in the development of hydroelectric power shall be installed in any dam herein authorized when approved by the Secretary of the Army upon the recommendation of the Chief of Engineers and of the Secretary of Energy.

(June 28, 1938, ch. 795, §4, 52 Stat. 1216; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 95-91, title III, §301(b), Aug. 4, 1977, 91 Stat. 578.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 28, 1938, ch. 795, 52 Stat. 1215, as amended, popularly known as the Flood Control Act of June 28, 1938, which to the extent classified to the Code enacted sections 701b, 701b-1, 701b-2, 701c-1, 701f-1, 701i, 701j, 702a-1½, 702a-11, and 706 of this title. For complete classification of this Act to the Code, see Tables.

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TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Federal Power Commission” on authority of Pub. L. 95-91, title III, §301(b), which is classified to section 7151(b) of Title 42, The Public Health and Welfare.

For transfer of functions of Federal Power Commission, with certain reservations, to chairman of such Commission, see Reorg. Plan No. 9 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.