

project.” 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)(D), (b)(6), which directed the amendment of section 1274(k), (m) of the former Appendix to this title from which this section was derived, was repealed by Pub.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.

§ 53713. Administrative fees

(a) IN GENERAL.—The Secretary or Administrator shall charge and collect from the obligor fees the Secretary or Administrator considers reasonable for—

- (1) investigating an application for a guarantee;
- (2) appraising property offered as security for a guarantee;
- (3) issuing a commitment;
- (4) providing services related to an escrow fund under section 53715 of this title; and
- (5) inspecting property during construction, reconstruction, or reconditioning.

(b) TOTAL FEE LIMITATION.—The total fees under subsection (a) may not exceed 0.5 percent of the original principal amount of the obligations to be guaranteed.

(c) FEES FOR INDEPENDENT ANALYSIS.—The Secretary or Administrator may charge and collect fees to cover the costs of independent analysis under section 53708(d) of this title. Notwithstanding section 3302 of title 31, any fee collected under this subsection shall—

- (1) be credited as an offsetting collection to the account that finances the administration of the loan guarantee program;
- (2) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and
- (3) remain available until expended.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1612; Pub. L. 109-163, div. C, title XXXV, §3507(a)(1)(D), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110-181, div. C, title XXXV, §3522(a)(10)(B), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 53713(a) | 46 App.:1274(f)(1) (words before proviso). | June 29, 1936, ch. 858, title XI, §1104A(f)(1), (4) [§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. 913; Pub. L. 97-31, §12(136), Aug. 6, 1981, 95 Stat. 166; §1104 renumbered as §1104A, Pub. L. 101-380, title IV, §4115(f)(1), Aug. 18, 1990, 104 Stat. 521; Pub. L. 107-314, title XXXV, §3503(2), Dec. 2, 2002, 116 Stat. 2754; Pub. L. 108-136, title XXXV, §3526(2), Nov. 24, 2003, 117 Stat. 1801. |
| 53713(b) | 46 App.:1274(f)(1) (proviso). | |
| 53713(c) | 46 App.:1274(f)(4). | |

AMENDMENTS

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 L. 110-181, §3522(b), repealed Pub.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

Subsecs. (a), (c), Pub. L. 110-181, §3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(D), into this section, by inserting “or Administrator” after “Secretary” wherever appearing 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(a)(1)(D), which directed the amendment of section 1274(f) 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 subsecs. (a), (c) and Historical and Revision notes above.

§ 53714. Guarantee fees

(a) REGULATIONS.—Subject to this section, the Secretary or Administrator shall prescribe regulations to assess a fee for guaranteeing an obligation under this chapter.

(b) COMPUTATION OF FEE.—

(1) IN GENERAL.—The amount of the fee for a guarantee under this chapter shall be equal to the sum of the amounts determined under paragraph (2) for the years in which the guarantee is in effect.

(2) PRESENT VALUE FOR EACH YEAR.—The amount referred to in paragraph (1) for a year in which the guarantee is in effect is the present value of the amount calculated under paragraph (3). To determine the present value, the Secretary or Administrator shall apply a discount rate determined by the Secretary of the Treasury, considering current market yields on outstanding obligations of the United States Government having periods to maturity comparable to the period to maturity for the guaranteed obligation.

(3) CALCULATION OF AMOUNT.—The amount referred to in paragraph (2) shall be calculated by multiplying—

(A) the estimated average unpaid principal amount of the obligation that will be outstanding during the year (excluding the average amount, other than interest, on deposit during the year in an escrow fund under section 53715 of this title); by

(B) the fee rate set under paragraph (4).

(4) SETTING FEE RATES.—To set the fee rate referred to in paragraph (3)(B), the Secretary or Administrator shall establish a formula that—

(A) takes into account the security provided for the guaranteed obligation; and

(B) is a sliding scale based on the creditworthiness of the obligor, using—

(i) the lowest allowable rate under paragraph (5) for the most creditworthy obligors; and

(ii) the highest allowable rate under paragraph (5) for the least creditworthy obligors.

(5) PERMISSIBLE RANGE OF RATES.—The fee rate set under paragraph (4) shall be—

(A) for a delivered vessel or equipment, at least 0.5 percent and not more than 1 percent; and

(B) for a vessel to be constructed, reconstructed, or reconditioned or equipment to be delivered, at least 0.25 percent and not more than 0.5 percent.

(c) WHEN FEE COLLECTED.—A fee for the guarantee of an obligation under this chapter shall be collected not later than the date on which an amount is first paid on the obligation.

(d) FINANCING THE FEE.—A fee paid under this section is eligible to be financed under this chapter and shall be included in the actual cost of the obligation guaranteed.

(e) NOT REFUNDABLE.—A fee paid under this section is not refundable. However, an obligor shall receive credit for the amount paid for the remaining term of the obligation if the obligation is refinanced and guaranteed under this chapter after the refinancing.

(Pub. L. 109-304, § 8(c), Oct. 6, 2006, 120 Stat. 1613; Pub. L. 109-163, div. C, title XXXV, § 3507(a)(1)(D), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110-181, div. C, title XXXV, § 3522(a)(10)(B), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---------------------|---|
| 53714(a) | 46 App.:1274(e)(1). | June 29, 1936, ch. 858, title XI, §1104A(e) [§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. 913; Pub. L. 97-31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 98-595, §1(12), Oct. 30, 1984, 98 Stat. 3131; §1104 renumbered as §1104A, Pub. L. 101-380, title IV, §4115(f)(1), Aug. 18, 1990, 104 Stat. 521; Pub. L. 104-239, §13(c), Oct. 8, 1996, 110 Stat. 3136. |
| 53714(b) | 46 App.:1274(e)(2). | |
| 53714(c) | 46 App.:1274(e)(3). | |
| 53714(d) | 46 App.:1274(e)(5). | |
| 53714(e) | 46 App.:1274(e)(4). | |

AMENDMENTS

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

Subsecs. (a), (b)(2), (4). Pub. L. 110-181, §3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(D), into this section by inserting “or Administrator” after “Secretary”, except the second place appearing in subsec. (b)(2). 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)(D), which directed the amendment of section 1274(e) 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 subsecs. (a), (b)(2), (4) and Historical and Revision notes above.

§ 53715. Escrow fund

(a) IN GENERAL.—If the proceeds of an obligation guaranteed under this chapter are to be used to finance the construction, reconstruction, or reconditioning of a vessel that will serve as security for a guarantee under this chapter, the Secretary or Administrator may accept and hold in escrow, under an escrow agreement with the obligor, a portion of the proceeds of all obligations guaranteed under this chapter whose proceeds are to be so used which is equal to—

(1) the excess of—

(A) the principal amount of all obligations whose proceeds are to be so used; over

(B) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the amount paid by or for the account of the obligor for the construction, reconstruction, or reconditioning of the vessel; plus

(2) any interest the Secretary or Administrator may require on the amount described in paragraph (1).

(b) SECURITY INVOLVING BOTH UNCOMPLETED AND DELIVERED VESSELS.—If the security for the