

## HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>  |
|------------------------|---------------------------|--|
| 53902 .....            | 46 App.:1282.             | June 29, 1936, ch. 858, title XII, §1202, as added Sept. 7, 1950, ch. 906, 64 Stat. 773; Pub. L. 101-115, §7(a), Oct. 13, 1989, 103 Stat. 694. |

**§ 53903. Insurable interests**

(a) IN GENERAL.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for—

(1) an American vessel, including a vessel under construction;

(2) a foreign vessel—

(A) owned by a citizen of the United States; or

(B) engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as the Secretary considers to be in the interest of the national defense or national economy of the United States, when so engaged;

(3) cargo—

(A) shipped or to be shipped on a vessel insurable under this section, including by express or registered mail;

(B) owned by a citizen or resident of the United States;

(C) imported to or exported from the United States, or sold or purchased by a citizen or resident of the United States, under a contract of sale or purchase the terms of which provide that the risk of loss by war risks or the obligation to provide insurance against war risks is on a citizen or resident of the United States; or

(D) shipped between ports in the United States;

(4) disbursements, including advances to masters and general average disbursements, and freight and passage money of a vessel insurable under this section;

(5) personal effects of an individual on a vessel insurable under this section;

(6) loss of life, injury, or detention by an enemy of the United States after capture, with respect to an individual on a vessel insurable under this section; and

(7) statutory or contractual obligations or other liabilities of a vessel insurable under this section or of the owner or charterer of such a vessel, of a nature customarily covered by insurance.

(b) CONSIDERATIONS FOR FOREIGN VESSELS.—In determining whether to provide insurance or reinsurance for a foreign vessel, the Secretary shall consider the characteristics, employment, and general management of the vessel by the owner or charterer.

(c) NON-WAR RISKS.—Insurance of a risk under subsection (a)(5)–(7), insofar as it involves a liability related to an individual on the vessel, may include risks other than war risks to the extent the Secretary considers advisable.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1627.)

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| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                                    | <i>Source (Statutes at Large)</i>  |
|------------------------|--|--|
| 53903(a) .....         | 46 App.:1283(a) (1st sentence), (b) (1st sentence), (c)–(f). | June 29, 1936, ch. 858, title XII, §1203(a) (1st, 2d sentences), (b) (1st sentence), (c)–(f), as added Sept. 7, 1950, ch. 906, 64 Stat. 773, 774; Pub. L. 94-523, §§1-3, Oct. 17, 1976, 90 Stat. 2474. |
| 53903(b) .....         | 46 App.:1283(a) (2d sentence).                               |  |
| 53903(c) .....         | 46 App.:1284.  | June 29, 1936, ch. 858, title XII, §1204, as added Sept. 7, 1950, ch. 906, 64 Stat. 774.   |

In subsections (a)(2) and (b), the words “foreign vessel” are substituted for “foreign-flag vessels” because of the definition of “foreign vessel” in chapter 1 of the revised title.

In paragraph (3), references to the territories and possessions of the United States are omitted as unnecessary because of the definition of “United States” in chapter 1 of the revised title.

In paragraph (5), the words “individual on a vessel insurable under this section” are substituted for “masters, officers, and crews of such vessels, and of other persons transported on such vessels” to eliminate unnecessary words.

In paragraph (6), the words “individual on a vessel insurable under this section” are substituted for “Masters, officers, members of the crews of such vessels and other persons employed or transported thereon” to eliminate unnecessary words.

**§ 53904. Liability insurance for persons involved in war or defense efforts**

(a) IN GENERAL.—The Secretary of Transportation may provide insurance under this chapter against legal liability that a person may incur in providing services or facilities for a vessel if, in the opinion of the Secretary, the insurance—

(1) is required in prosecuting a war or for national defense; and

(2) cannot be obtained at reasonable rates or on reasonable terms and conditions from approved companies authorized to do insurance business in a State of the United States.

(b) LIMITATIONS.—Employer liability insurance and worker compensation insurance against legal liability to employees may not be provided under this section.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1628.)

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| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 53904 .....            | 46 App.:1286.             | June 29, 1936, ch. 858, title XII, §1206, as added Sept. 7, 1950, ch. 906, 64 Stat. 774; Aug. 3, 1956, ch. 929, §5, 70 Stat. 986. |

In subsection (a), the words “a vessel” are substituted for “any American- or foreign-flag vessel, public or private” to eliminate unnecessary words.

**§ 53905. Agency insurance**

(a) IN GENERAL.—With the approval of the President, an agency of the United States Government may obtain insurance provided for by this chapter from the Secretary of Transportation, except as provided in sections 17302 and 17303 of title 40.

(b) PREMIUM WAIVERS.—With the approval of the President, the Secretary of Transportation

may provide insurance under this chapter at the request of the Secretary of Defense and other agencies the President may prescribe, without payment of an insurance premium if the Secretary of Defense or agency agrees to indemnify the Secretary of Transportation against loss covered by the insurance. The Secretary of Defense and agencies may make such an indemnity agreement.

(c) **PRESIDENTIAL APPROVAL.**—The signature of the President (or an official designated by the President) on the agreement shall be treated as the approval required by section 53902(a) of this title.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1628.)

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| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i>   |
|------------------------|---------------------------|---|
| 53905 .....            | 46 App.:1285.             | June 29, 1936, ch. 858, title XII, § 1205, as added Sept. 7, 1950, ch. 906, 64 Stat. 774; Pub. L. 105–261, div. A, title X, § 1071(a), Oct. 17, 1998, 112 Stat. 2137. |

### § 53906. Hull insurance valuation

(a) **STATED VALUATION.**—The valuation in a hull insurance policy for actual or constructive total loss of the insured vessel shall be a stated valuation determined by the Secretary of Transportation. The stated valuation—

(1) shall exclude national defense features paid for by the United States Government; and

(2) may not exceed the amount that would be payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

(b) **REJECTING STATED VALUATION.**—Within 60 days after the insurance attaches under a policy referred to in subsection (a) or within 60 days after the Secretary determines the valuation, whichever is later, the insured may reject the valuation and pay, at the rate provided in the policy, premiums based on the asserted valuation the insured specifies at the time of rejection. However, the asserted valuation is not binding on the Government in any subsequent action on the policy.

(c) **AMOUNT OF CLAIM.**—If a vessel is actually or constructively totally lost and the insured under a policy referred to in subsection (a) has not rejected the stated valuation determined by the Secretary, the amount of a claim adjusted, compromised, settled, adjudged, or paid may not exceed the stated valuation. However, if the insured has rejected the valuation, the insured—

(1) shall be paid, as a tentative advance only, 75 percent of the stated valuation; and

(2) may bring a civil action against the United States in a court having jurisdiction of the claim to recover a valuation equal to the just compensation the court determines would have been payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

(d) **ADJUSTING PREMIUMS.**—If a court makes a determination as provided under subsection

(c)(2), premiums paid under the policy shall be adjusted based on the court's determination and the rates provided for in the policy.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1629.)

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|------------------------|---------------------------|---|
| 53906 .....            | 46 App.:1289(a)(2).       | June 29, 1936, ch. 858, title XII, § 1209(a)(2), as added Sept. 7, 1950, ch. 906, 64 Stat. 775; Aug. 3, 1956, ch. 929, § 1, 70 Stat. 984; Pub. L. 88–478, § 1, Aug. 22, 1964, 78 Stat. 587. |

In subsection (c), the words “*Provided, That in the event of an election by the insured to reject the stated valuation fixed by the Secretary and to sue in the courts, the amount of the judgment will be payable without regard to the limitations contained in section 1242–1 of this Appendix, although the excess of any amounts advanced on account of just compensation over the amount of the court judgment will be required to be refunded*” are omitted as obsolete because the section referred to, which was from the Department of Commerce and Related Agencies Appropriation Act, 1959 (Pub. L. 85–469, 72 Stat. 231), has been omitted from the United States Code as obsolete.

### § 53907. Reinsurance

(a) **IN GENERAL.**—To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may provide reinsurance to a company authorized to do insurance business in a State of the United States. The Secretary may obtain reinsurance from such a company for any insurance provided by the Secretary under this chapter.

(b) **RATES.**—The Secretary may not provide reinsurance at rates less than, nor obtain reinsurance at rates more than, the rates established by the Secretary on the same or similar risks or the rates charged by the insurance company for the insurance reinsured, whichever is more advantageous to the Secretary. However, the Secretary may provide an allowance to the insurance company for the costs of services and facilities the company provides, in an amount the Secretary considers reasonable according to good business practice. The allowance to the company may not include any amount for soliciting or stimulating insurance business.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1629.)

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|------------------------|---------------------------|---|
| 53907 .....            | 46 App.:1287.             | June 29, 1936, ch. 858, title XII, § 1207, as added Sept. 7, 1950, ch. 906, 64 Stat. 775. |

In subsection (a), the words “insurance under this chapter” are substituted for “marine, war risk, and liability insurance” for consistency in this chapter. The words “in whole or in part” are omitted as unnecessary. The words “obtain reinsurance from” are substituted for “reinsure with, or cede or retrocede to” for clarity and to eliminate unnecessary words.

### § 53908. Additional insurance privately obtained

With the approval of the Secretary of Transportation, a person having an insurable interest in a vessel may obtain insurance on the vessel