

carry out any guarantee made by it on behalf of any guaranteeing agency shall be supplied and disbursed by or under authority from such guaranteeing agency.

(3) Limit on liability

No fiscal agent described in paragraph (1) shall have any responsibility or accountability, except as agent in taking any action pursuant to or under authority of this section.

(4) Reimbursements

Each fiscal agent described in paragraph (1) shall be reimbursed by each guaranteeing agency for all expenses and losses incurred by such fiscal agent in acting as agent on behalf of such guaranteeing agency, including, notwithstanding any other provision of law, attorneys' fees and expenses of litigation.

(c) Oversight

(1) In general

All actions and operations of fiscal agents under authority of or pursuant to this section shall be subject to the supervision of the President, and to such regulations as the President may prescribe.

(2) Other authority

The President is authorized to prescribe—

(A) either specifically or by maximum limits or otherwise, rates of interest, guarantee and commitment fees, and other charges which may be made in connection with loans, discounts, advances, or commitments guaranteed by the guaranteeing agencies through fiscal agents under this section; and

(B) regulations governing the forms and procedures (which shall be uniform to the extent practicable) to be utilized in connection with such guarantees.

(d) Aggregate guarantee amounts

(1) Industrial resource and critical technology shortfalls

(A) In general

If the making of any guarantee or obligation of the Federal Government under this subchapter relating to a domestic industrial base shortfall would cause the aggregate outstanding amount of all guarantees for such shortfall to exceed \$50,000,000, any such guarantee may be made only—

(i) if the President has notified the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives in writing of the proposed guarantee; and

(ii) after the 30-day period following the date on which notice under clause (i) is provided.

(B) Waivers authorized

The requirements of subparagraph (A) may be waived—

(i) during a period of national emergency declared by Congress or the President; or

(ii) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology

item shortfall that would severely impair national defense capability.

(2) Other limitations

The authority conferred by this section shall not be used primarily to prevent the financial insolvency or bankruptcy of any person, unless—

(A) the President certifies that the insolvency or bankruptcy would have a direct and substantially adverse effect upon national defense production; and

(B) a copy of the certification under subparagraph (A), together with a detailed justification thereof, is transmitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 10 days prior to the exercise of that authority for such use.

(Sept. 8, 1950, ch. 932, title III, §301, as added Pub. L. 111-67, §7, Sept. 30, 2009, 123 Stat. 2010.)

TERMINATION OF SECTION

For termination of section, see section 4564(a) of this title.

CODIFICATION

Section was formerly classified to section 2091 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 301 of act Sept. 8, 1950, ch. 932, title III, 64 Stat. 800; June 30, 1953, ch. 171, §4, 67 Stat. 129; Pub. L. 91-379, title I, §104, Aug. 15, 1970, 84 Stat. 799; Pub. L. 96-294, title I, §104(a), (b), June 30, 1980, 94 Stat. 618; Pub. L. 98-265, §§3(a), 4(a), Apr. 17, 1984, 98 Stat. 149, 150; Pub. L. 102-558, title I, §§121(a), 141, Oct. 28, 1992, 106 Stat. 4203, 4217; Pub. L. 107-47, §4(1)-(3), (5), Oct. 5, 2001, 115 Stat. 260, related to loan guarantees, prior to the general amendment of title III of this Act by Pub. L. 111-67.

DELEGATION OF FUNCTIONS

Functions of President under this chapter relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, eff. June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

For delegation of authority of President under subsec. (a)(2) of this section, see section 305(a) of Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16654, set out as a note under section 4553 of this title.

§ 4532. Loans to private business enterprises

(a) Loan authority

To reduce current or projected shortfalls of industrial resources, critical technology items, or materials essential for the national defense, the President may make provision for loans to private business enterprises (including nonprofit research corporations and providers of critical infrastructure) for the creation, maintenance, expansion, protection, or restoration of capacity, the development of technological processes, or the production of essential materials, including the exploration, development, and mining of strategic and critical metals and minerals.

(b) Conditions of loans

Loans may be made under this section on such terms and conditions as the President deems necessary, except that—

(1) financial assistance may be extended only to the extent that it is not otherwise available from private sources on reasonable terms; and

(2) during periods of national emergency declared by the Congress or the President, no such loan may be made unless the President determines that—

(A) the loan is for an activity that supports the production or supply of an industrial resource, critical technology item, or material that is essential to the national defense;

(B) without the loan, United States industry cannot reasonably be expected to provide the needed capacity, technological processes, or materials in a timely manner;

(C) the loan is the most cost-effective, expedient, and practical alternative method for meeting the need;

(D) the prospective earning power of the loan applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan in accordance with the terms of the loan, as determined by the President; and

(E) the loan bears interest at a rate determined by the Secretary of the Treasury to be reasonable, taking into account the then-current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(c) Limitations on loans

Loans under this section may be—

(1) made or guaranteed under the authority of this section only to the extent that an appropriations Act—

(A) provides, in advance, budget authority for the cost of such guarantees, as defined in section 661a of title 2; and

(B) establishes a limitation on the total loan principal that may be guaranteed; and

(2) made without regard to the limitations of existing law, other than section 1341 of title 31.

(d) Aggregate loan amounts

(1) In general

If the making of any loan under this section to correct a shortfall would cause the aggregate outstanding amount of all obligations of the Federal Government under this subchapter relating to such shortfall to exceed \$50,000,000, such loan may be made only—

(A) if the President has notified the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, in writing, of the proposed loan; and

(B) after the 30-day period following the date on which notice under subparagraph (A) is provided.

(2) Waivers authorized

The requirements of paragraph (1) may be waived—

(A) during a period of national emergency declared by the Congress or the President; and

(B) upon a determination by the President, on a nondelegable basis, that a specific loan

is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.

(Sept. 8, 1950, ch. 932, title III, §302, as added Pub. L. 111-67, §7, Sept. 30, 2009, 123 Stat. 2012.)

TERMINATION OF SECTION

For termination of section, see section 4564(a) of this title.

CODIFICATION

Section was formerly classified to section 2092 of the former Appendix to this title prior to editorial reclassification and renumbering as this section.

PRIOR PROVISIONS

A prior section 302 of act Sept. 8, 1950, ch. 932, title III, 64 Stat. 801; June 30, 1952, ch. 530, title I, §104, 66 Stat. 298; Pub. L. 93-155, title VIII, §807(b), Nov. 16, 1973, 87 Stat. 615; Pub. L. 96-294, title I, §104(c), June 30, 1980, 94 Stat. 618; Pub. L. 98-265, §§3(b), 4(b), Apr. 17, 1984, 98 Stat. 149, 151; Pub. L. 102-558, title I, §121(b), Oct. 28, 1992, 106 Stat. 4204, related to loans to private business enterprises, prior to the general amendment of title III of this Act by Pub. L. 111-67.

DELEGATION OF FUNCTIONS

Functions of President under this chapter relating to production, conservation, use, control, distribution, and allocation of energy, delegated to Secretary of Energy, see section 4 of Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, set out as a note under section 761 of Title 15, Commerce and Trade.

For delegation of certain authority of President under this section, see sections 302 and 305(a) of Ex. Ord. No. 13603, Mar. 16, 2012, 77 F.R. 16654, set out as a note under section 4553 of this title.

§ 4533. Other presidential action authorized

(a) In general

(1) In general

To create, maintain, protect, expand, or restore domestic industrial base capabilities essential for the national defense, the President may make provision—

(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale;

(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials;

(C) for the development of production capabilities; and

(D) for the increased use of emerging technologies in security program applications and the rapid transition of emerging technologies—

(i) from Government-sponsored research and development to commercial applications; and

(ii) from commercial research and development to national defense applications.

(2) Treatment of certain agricultural commodities

A purchase for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced, except to the extent that such domestically produced supply may be purchased for resale for industrial use or stockpiling.