

(b) Violation of a regulation prescribed under subsection (a) shall constitute adequate basis for the issuance of an order under section 5239(a) or (b) of the Revised Statutes (12 U.S.C. 93(a) or (b)), section 8(b) or 8(c) of the Federal Deposit Insurance Act, section 5(d)(2) or 5(d)(3)¹ of the Home Owners' Loan Act of 1933, section 407(e) or 407(f)¹ of the National Housing Act, or section 206(e) or 206(f) of the Federal Credit Union Act. Such an order may be issued with respect to a depository institution by its appropriate regulatory agency and with respect to a federally insured credit union by the National Credit Union Administration.

(c) Nothing in this section shall be construed to affect in any way the powers of such agencies under any other provision of law.

(d) The Secretary shall, prior to adopting regulations under this section, determine with respect to each appropriate regulatory agency and the National Credit Union Administration Board, whether its rules and standards adequately meet the purposes of regulations to be promulgated under this section, and if the Secretary so determines, shall exempt any depository institution subject to such rules or standards from the regulations promulgated under this section.

(e) As used in this subsection—

(1) "depository institution" has the meaning stated in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act and also includes a foreign bank, an agency or branch of a foreign bank, and a commercial lending company owned or controlled by a foreign bank (as such terms are defined in the International Banking Act of 1978).

(2) "government securities broker" has the meaning prescribed in section 3(a)(43) of the Securities Exchange Act of 1934.

(3) "government securities dealer" has the meaning prescribed in section 3(a)(44) of the Securities Exchange Act of 1934.

(4) "appropriate regulatory agency" has the meaning prescribed in section 3(a)(34)(G) of the Securities Exchange Act of 1934.

(Added Pub. L. 99-571, title II, §201(b)(1), Oct. 28, 1986, 100 Stat. 3223; amended Pub. L. 103-272, §4(f)(1)(AA), July 5, 1994, 108 Stat. 1363.)

REFERENCES IN TEXT

Section 3(a)(34)(G), (42)(B), (C), (43), (44) of the Securities Exchange Act of 1934, referred to in subsecs. (a) and (e)(2)-(4), is classified to section 78c(a)(34)(G), (42)(B), (C), (43), (44) of Title 15, Commerce and Trade.

Section 8(b) or 8(c) of the Federal Deposit Insurance Act, referred to in subsec. (b), is classified to section 1818(b), (c) of Title 12, Banks and Banking.

Section 5(d)(2) or 5(d)(3) of the Home Owners' Loan Act of 1933, referred to in subsec. (b), is classified to section 1464(d)(2), (3) of Title 12, but was amended generally by Pub. L. 101-73, title III, §301, Aug. 9, 1989, 103 Stat. 282, and no longer relates to issuance of orders. See section 1464(d)(1) of Title 12.

Section 407 of the National Housing Act, referred to in subsec. (b), which was classified to section 1730 of Title 12, was repealed by Pub. L. 101-73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

Section 206(e) or 206(f) of the Federal Credit Union Act, referred to in subsec. (b), is classified to section 1786(e), (f) of Title 12.

¹ See References in Text note below.

Clauses (i) through (vi) of subparagraph [section] 19(b)(1)(A) of the Federal Reserve Act, referred to in subsec. (e)(1), are classified to section 461(b)(1)(A)(i) to (vi) of Title 12.

The International Banking Act of 1978, referred to in subsec. (e)(1), is Pub. L. 95-369, Sept. 17, 1978, 92 Stat. 607, which enacted chapter 32 (§3101 et seq.) and sections 347d and 611a of Title 12, Banks and Banking, amended sections 72, 378, 614, 615, 618, 619, 1813, 1815, 1817, 1818, 1820, 1821, 1822, 1823, 1828, 1829b, 1831b, and 1841 of Title 12, and enacted provisions set out as notes under sections 36, 247, 601, 611a, and 3101 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 12 and Tables.

AMENDMENTS

1994—Subsec. (e)(1). Pub. L. 103-272 substituted "section" for "subparagraph".

EFFECTIVE DATE; PROMULGATION OF REGULATIONS

Section effective 270 days after Oct. 28, 1986, except that the Secretary of the Treasury and each appropriate regulatory agency shall publish for notice and public comment within 120 days after Oct. 28, 1986, initial implementing regulations to become effective as temporary regulations 210 days after Oct. 28, 1986, and as final regulations not later than 270 days after Oct. 28, 1986, see title IV of Pub. L. 99-571, set out as a note under section 780-5 of Title 15, Commerce and Trade.

TRANSITIONAL AND SAVINGS PROVISIONS

For transitional and savings provisions of Pub. L. 99-571, see section 301 of Pub. L. 99-571, set out as a note under section 780-5 of Title 15, Commerce and Trade.

CHAPTER 93—SURETIES AND SURETY BONDS

Sec. 9301.	Definitions.
9302.	Prohibition against surety bonds for United States Government personnel.
9303.	Use of Government obligations instead of surety bonds. ¹
9304.	Surety corporations.
9305.	Authority and revocation of authority of surety corporations.
9306.	Surety corporations acting outside area of incorporation and place of principal office.
9307.	Civil actions and judgments against surety corporations.
9308.	Civil penalty.
9309.	Priority of sureties.
9310.	Individual sureties.

AMENDMENTS

2015—Pub. L. 114-92, div. A, title VIII, §874(a)(2), Nov. 25, 2015, 129 Stat. 940, added item 9310.

§ 9301. Definitions

In this chapter—

(1) "person" means an individual, a trust, an estate, a partnership, and a corporation.

(2) "eligible obligation" means any security designated as acceptable in lieu of a surety bond by the Secretary of the Treasury.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1046; Pub. L. 109-351, title IX, §901(a), Oct. 13, 2006, 120 Stat. 2007.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9301	6:15(10th, last sentences).	

¹ Section catchline amended by Pub. L. 109-351 without corresponding amendment of chapter analysis.

In clause (1), the words after the semicolon are omitted as unnecessary because of the restatement.

Clause (2) is substituted for 6:15(last sentence) for consistency and to eliminate unnecessary words.

AMENDMENTS

2006—Par. (2). Pub. L. 109-351 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “‘Government obligation’ means a public debt obligation of the United States Government and an obligation whose principal and interest is unconditionally guaranteed by the Government.”

§ 9302. Prohibition against surety bonds for United States Government personnel

An agency (except a mixed-ownership Government corporation) may not require or obtain a surety bond for a member of the uniformed services or an officer or employee of the United States Government in carrying out official duties. This section does not affect the personal financial liability of the member, officer, or employee.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1046.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9302	31:1201.	June 6, 1972, Pub. L. 92-310, §101, 86 Stat. 201.

The words “agency (except a mixed-ownership Government corporation)” are substituted for 31:1201(c)(words before last comma) and “agency of the Federal Government” because of section 101 of the revised title and for consistency. The words “member of the uniformed services or an officer or employee of the United States Government” are substituted for “civilian employees or military personnel” for consistency with other titles of the United States Code. The words “in carrying out official duties” are substituted for “in connection with the performance of their official duties” to eliminate unnecessary words and because of the restatement. The words “to the Federal Government” are omitted as surplus. The words “member, officer, or employee” are substituted for “employees and personnel” because of the restatement.

§ 9303. Use of eligible obligations instead of surety bonds

(a) If a person is required under a law of the United States to give a surety bond, the person may give an eligible obligation as security instead of a surety bond. The obligation shall—

- (1) be given to the official having authority to approve the surety bond;
- (2) as determined by the Secretary of the Treasury, have a market value that is equal to or greater than the amount of the required surety bond; and
- (3) authorize the official receiving the obligation to collect or sell the obligation if the person defaults on a required condition.

(b)(1) An official receiving an eligible obligation under subsection (a) of this section may deposit it with—

- (A) the Secretary of the Treasury;
- (B) a Federal reserve bank; or
- (C) a depository designated by the Secretary.

(2) The Secretary, bank, or depository shall issue a receipt that describes the obligation deposited.

(c) Using an eligible obligation instead of a surety bond for security is the same as using—

- (1) a personal or corporate surety bond;
- (2) a certified check;
- (3) a bank draft;
- (4) a post office money order; or
- (5) cash.

(d) When security is no longer required, an eligible obligation given instead of a surety bond shall be returned to the person giving the obligation. If a person, supplying labor or material to a contractor defaulting under sections 3131 and 3133 of title 40, files with the United States Government the application and affidavit provided under section 3133(a) of title 40, the Government—

(1) may return to the contractor the eligible obligation given as security (or proceeds of the eligible obligation given) under sections 3131 and 3133 of title 40 only after the 90-day period for bringing a civil action under section 3133(b) of title 40; and

(2) if a civil action is brought in the 90-day period, shall hold the eligible obligation or the proceeds subject to the order of the court having jurisdiction of the action.

(e) This section does not affect the—

(1) priority of a claim of the Government against an eligible obligation given under this section;

(2) right or remedy of the Government for default on an obligation provided under—

- (A) sections 3131 and 3133 of title 40; or
- (B) this section;

(3) authority of a court over an eligible obligation given as security in a civil action; and

(4) authority of an official of the Government authorized by another law to receive an eligible obligation as security.

(f) To avoid frequent substitution of eligible obligations, the Secretary may prescribe regulations limiting the effect of this section to an eligible obligation maturing more than one year after the date the obligation is given as security.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1046; Pub. L. 107-217, §3(h)(9), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 108-178, §4(f)(2), Dec. 15, 2003, 117 Stat. 2641; Pub. L. 109-351, title IX, §901(b), (c), Oct. 13, 2006, 120 Stat. 2007.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9303(a)	6:15(1st sentence).	
9303(b)	6:15(3d sentence).	
9303(c)	6:15(2d sentence).	
9303(d)	6:15(4th, 5th sentences).	
9303(e)	6:15(6th, 8th sentences).	
9303(f)	6:15(7th, 9th, 11th sentences).	

In subsection (a), before clause (1), the words “If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond” are substituted for “Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called