

pealed by Pub. L. 110-181, §3522(b). See 2008 Amendment notes and Historical and Revision notes above.

SUBCHAPTER II—DEFAULT PROVISIONS

§ 53721. Rights of obligee

(a) DEMANDS BY OBLIGEEES.—Except as provided in subsection (c), if an obligor has continued in default for 30 days in the payment of principal or interest on an obligation guaranteed under this chapter, the obligee or the obligee’s agent may demand that the Secretary or Administrator pay the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. The demand must be made within the earlier of—

- (1) a period that may be specified in the guarantee or a related agreement; or
- (2) 90 days from the date of the default.

(b) PAYMENTS BY SECRETARY OR ADMINISTRATOR.—

(1) IN GENERAL.—If a demand is made under subsection (a), the Secretary or Administrator shall pay to the obligee or the obligee’s agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

- (A) a period that may be specified in the guarantee or a related agreement; or
- (B) 30 days from the date of the demand.

(2) IF NO EXISTING DEFAULT.—The Secretary or Administrator is not required to make payment under this subsection if, within the appropriate period under paragraph (1), the Secretary or Administrator finds that the obligor was not in default or that the default was remedied before the demand.

(c) ASSUMPTION OF RIGHTS AND OBLIGATIONS BEFORE DEMAND.—An obligee or the obligee’s agent may not demand payment under this section if the Secretary or Administrator, before the demand and on terms that may be provided in the obligation or a related agreement, has assumed the obligor’s rights and duties under the obligation and any related agreement and made any payment in default. However, the guarantee of the obligation remains in effect after the Secretary’s or Administrator’s assumption.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1617; Pub. L. 109-163, div. C, title XXXV, §3507(a)(1)(C), (F), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110-181, div. C, title XXXV, §3522(a)(10)(B), (11), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                     | <i>Source (Statutes at Large)</i>   |
|------------------------|---|---|
| 53721(b)(1) ..         | 46 App.:1275(a) (last sentence less proviso). |   |
| 53721(b)(2) ..         | 46 App.:1275(a) (last sentence proviso).      |   |
| 53721(c) .....         | 46 App.:1273(e) (last sentence).              | June 29, 1936, ch. 858, title XI, §1103(e) (last sentence), as added Pub. L. 98-595, §1(1), Oct. 30, 1984, 98 Stat. 3130. |
|                        | 46 App.:1275(a) (1st sentence parenthetical). |   |

AMENDMENTS

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

Pub. L. 110-181, §3522(a)(10)(B), (11), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(C), (F), into this section by inserting “or Administrator” after “Secretary” wherever appearing and “or Administrator’s” after “Secretary’s” in subsec. (c). 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)(C), (F), which directed the amendment of sections 1273(e) and 1275(a) 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.

§ 53722. Actions by Secretary or Administrator

(a) GENERAL AUTHORITY.—On default under an obligation or related agreement between the Secretary or Administrator and the obligor, the Secretary or Administrator, on terms that may be provided in the obligation or agreement, may—

- (1) assume the obligor’s rights and duties under the obligation or agreement, make any payment in default, and notify the obligee or the obligee’s agent of the default and the Secretary’s or Administrator’s assumption; or
- (2) notify the obligee or the obligee’s agent of the default.

(b) DEMANDS BY OBLIGEEES.—

(1) DEMAND.—If the Secretary or Administrator proceeds under subsection (a)(2), the obligee or the obligee’s agent may demand that the Secretary or Administrator pay the unpaid principal amount of the obligation and the unpaid interest on the obligation. The demand must be made within the earlier of—

- (A) a period that may be specified in the guarantee or a related agreement; or
- (B) 60 days from the date of the Secretary’s or Administrator’s notice.

(2) PAYMENT.—If a demand is made under paragraph (1), the Secretary or Administrator shall pay to the obligee or the obligee’s agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

- (A) a period that may be specified in the guarantee or a related agreement; or
- (B) 30 days from the date of the demand.

(c) CONTINUED EFFECT OF GUARANTEE.—A guarantee of an obligation remains in effect after an

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i>                          | <i>Source (Statutes at Large)</i>   |
|------------------------|--|---|
| 53721(a) .....         | 46 App.:1275(a) (1st sentence less parenthetical). | June 29, 1936, ch. 858, title XI, §1105(a), as added June 23, 1938, ch. 600, §46, 52 Stat. 971; Aug. 15, 1953, ch. 513, §3, 67 Stat. 626; Sept. 3, 1954, ch. 1265, §5, 68 Stat. 1272; Aug. 7, 1956, ch. 1026, §1(e)-(g), 70 Stat. 1087; Pub. L. 85-520, July 15, 1958, 72 Stat. 358; Pub. L. 91-469, §33, Oct. 21, 1970, 84 Stat. 1035; restated Pub. L. 92-507, §3, Oct. 19, 1972, 86 Stat. 914; Pub. L. 97-31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 98-595, §1(8), Oct. 30, 1984, 98 Stat. 3131. |

assumption of the obligation by the Secretary or Administrator.

(d) ADDITIONAL RESPONSES.—If there is a default on an obligation, the Secretary or Administrator shall conduct operations under this chapter in a manner that—

- (1) maximizes the net present value return from the sale or disposition of assets associated with the obligation, including prompt referral to the Attorney General for collection as appropriate;
- (2) minimizes the amount of any loss realized in the resolution of the guarantee;
- (3) ensures adequate competition and fair and consistent treatment of offerors; and
- (4) requires appraisal of assets by an independent appraiser.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1618; Pub. L. 109–163, div. C, title XXXV, §3507(a)(1)(C), (F), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110–181, div. C, title XXXV, §3522(a)(10)(B), (11), (b), Jan. 28, 2008, 122 Stat. 598.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code)               | Source (Statutes at Large)  |
|-----------------|----------------------------------|---|
| 53722(a), (b)   | 46 App.:1275(b).                 | June 29, 1936, ch. 858, title XI, §1105(b), as added June 23, 1938, ch. 600, §46, 52 Stat. 971; Aug. 15, 1953, ch. 513, §3, 67 Stat. 626; Sept. 3, 1954, ch. 1265, §5, 68 Stat. 1272; Aug. 7, 1956, ch. 1026, §1(e)–(g), 70 Stat. 1087; Pub. L. 85–520, July 15, 1958, 72 Stat. 358; Pub. L. 91–469, §33, Oct. 21, 1970, 84 Stat. 1035; restated Pub. L. 92–507, §3, Oct. 19, 1972, 86 Stat. 914; Pub. L. 97–31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 98–595, §1(9), Oct. 30, 1984, 98 Stat. 3131. |
| 53722(c) .....  | 46 App.:1273(e) (last sentence). | June 29, 1936, ch. 858, title XI, §1103(e) (last sentence), as added Pub. L. 98–595, §1(1), Oct. 30, 1984, 98 Stat. 3130.   |
| 53722(d) .....  | 46 App.:1275(f).                 | June 29, 1936, ch. 858, title XI, §1105(f), as added Pub. L. 108–136, title XXXV, §3524, Nov. 24, 2003, 117 Stat. 1801.   |

In subsection (a), before paragraph (1), the words “an obligation or related agreement” are substituted for “a mortgage, loan agreement, or other security agreement” for consistency in the revised chapter.

AMENDMENTS

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

Pub. L. 110–181, 3522(a)(10)(B), (11), incorporated the substance of the amendment by Pub. L. 109–163, §3507(a)(1)(C), (F), into this section by inserting “or Administrator” after “Secretary” in section catchline and wherever appearing in subsecs. (a) to (c) and “or Administrator’s” after “Secretary’s” in subsecs. (a)(1) and (b)(1)(B). 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.

Subsec. (d). Pub. L. 110–181, §3522(a)(10)(B), inserted “or Administrator” after “Secretary” in introductory provisions.

2006—Pub. L. 109–163, §3507(a)(1)(C), (F), which directed the amendment of sections 1273(e) and 1275(b) of the former Appendix to this title from which this section was derived in part, was repealed by Pub. L. 110–181, §3522(b). See 2008 Amendment notes and Historical and Revision notes above.

§ 53723. Payments by Secretary or Administrator and issuance of obligations

(a) CASH PAYMENT.—Amounts required to be paid by the Secretary or Administrator under section 53721 or 53722 of this title shall be paid in cash.

(b) ISSUANCE OF OBLIGATIONS.—If amounts in the appropriate account under section 53717 of this title are not sufficient to make a payment required under section 53721 or 53722 of this title, the Secretary or Administrator may issue obligations to the Secretary of the Treasury. The Secretary or Administrator, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the current average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

(c) PURCHASE OF OBLIGATIONS.—The Secretary of the Treasury shall purchase the obligations issued under this section. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. The Secretary of the Treasury may sell obligations purchased under this section. A redemption, purchase, or sale of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

(d) DEPOSITS AND REDEMPTIONS.—The Secretary or Administrator shall deposit amounts borrowed under this section in the appropriate account under section 53717 of this title and make redemptions of the obligations from that account.

(Pub. L. 109–304, §8(c), Oct. 6, 2006, 120 Stat. 1618; Pub. L. 109–163, div. C, title XXXV, §3507(a)(1)(G), 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)   |
|-----------------|--------------------|--|
| 53723 .....     | 46 App.:1275(d).   | June 29, 1936, ch. 858, title XI, §1105(d), as added June 23, 1938, ch. 600, §46, 52 Stat. 972; Aug. 15, 1953, ch. 513, §3, 67 Stat. 626; Sept. 3, 1954, ch. 1265, §5, 68 Stat. 1272; Aug. 7, 1956, ch. 1026, §1(e)–(g), 70 Stat. 1087; Pub. L. 85–520, July 15, 1958, 72 Stat. 358; Pub. L. 91–469, §33, Oct. 21, 1970, 84 Stat. 1035; restated Pub. L. 92–507, §3, Oct. 19, 1972, 86 Stat. 914; Pub. L. 96–561, title II, §220(4), Dec. 22, 1980, 94 Stat. 3294; Pub. L. 97–31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 97–35, title XVI, §1606(e), Aug. 13, 1981, 95 Stat. 752. |

In subsections (b) and (d), the words “appropriate account under section 53717 of this title” are substituted for “Federal Ship Financing Fund” because the accounts under section 53717 replace the Federal Ship Financing Fund. See the explanation for section 53717.