

AMENDMENTS

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 L. 110-181, §3522(b), repealed Pub.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

Subsecs. (a), (b), (d). Pub. L. 110-181, §3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109-163, §3507(a)(1)(G), into this section by inserting “or Administrator” after “Secretary” in section catchline and wherever appearing in text, except when followed by “of the Treasury”. 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)(G), which directed the amendment of section 1275(d) of the former Appendix to this title from which this section was derived, was repealed by Pub.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), (d) and Historical and Revision notes above.

§ 53724. Rights to secured property

(a) ACQUISITION OF SECURITY RIGHTS.—When the Secretary or Administrator makes a payment on, or assumes, an obligation under section 53721 or 53722 of this title, the Secretary or Administrator acquires the rights under the security agreement with the obligor in the security held by the Secretary or Administrator to guarantee the obligation.

(b) USE AND DISPOSITION OF SECURED PROPERTY.—Notwithstanding any other law relating to the acquisition, handling, or disposal of property by the United States Government, the Secretary or Administrator has the right, in the Secretary’s or Administrator’s discretion, to complete, reconstruct, recondition, renovate, repair, maintain, operate, charter, or sell any property acquired under a security agreement with an obligor, or to place a vessel so acquired in the National Defense Reserve Fleet. The terms of a sale under this subsection shall be as approved by the Secretary or Administrator.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1619; Pub. L. 109-163, div. C, title XXXV, §3507(a)(1)(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

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 53724, 46 App.:1275(c), June 29, 1936, ch. 858, title XI, §1105(c), 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(10), Oct. 30, 1984, 98 Stat. 3131.

AMENDMENTS

2008—Pub. L. 110-181, §3522(b), repealed Pub. L. 109-163, §3507(a)(1)(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)(F), into this section by inserting “or Administrator” after “Secretary” wherever appearing and, in subsec. (b), “or Administrator’s” after “Secretary’s”. 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)(F), which directed the amendment of section 1275(c) 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.

§ 53725. Actions against obligor

(a) IN GENERAL.—For a default under a guaranteed obligation or related agreement, the Secretary or Administrator may take any action against the obligor or another liable party that the Secretary or Administrator considers necessary to protect the interests of the United States Government. A civil action may be brought in the name of the United States or the obligee. The obligee shall make available to the Government all records and evidence necessary to prosecute the action.

(b) TITLE, POSSESSION, AND PURCHASE.—

(1) IN GENERAL.—The Secretary or Administrator may—

(A) accept a conveyance of title to and possession of property from the obligor or another party liable to the Secretary or Administrator; and

(B) purchase the property for an amount not greater than the unpaid principal amount of the obligation and interest thereon.

(2) PAYMENT OF EXCESS.—If, through the sale of property, the Secretary or Administrator receives an amount of cash greater than the unpaid principal amount of the obligation, the unpaid interest on the obligation, and the expenses of collecting those amounts, the Secretary or Administrator shall pay the excess to the obligor.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1619; Pub. L. 109-163, div. C, title XXXV, §3507(a)(1)(F), 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

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 53725, 46 App.:1275(e), June 29, 1936, ch. 858, title XI, §1105(e), 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. 915; Pub. L. 97-31, §12(136), Aug. 6, 1981, 95 Stat. 166; Pub. L. 98-595, §1(11), Oct. 30, 1984, 98 Stat. 3131.

In subsection (a), the words “may take any action” are substituted for “shall take such action . . . that, in his discretion, may be required” for clarity and to eliminate unnecessary words.

AMENDMENTS

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

Pub. L. 110-181, §3522(a)(10)(B), incorporated the substance of the amendment by Pub. L. 109-163,

§ 3507(a)(1)(F), into this section by inserting “or Administrator” after “Secretary” wherever appearing. 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)(F), which directed the amendment of section 1275(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 notes and Historical and Revision notes above.

SUBCHAPTER III—PARTICULAR PROJECTS

§ 53731. Commercial demonstration ocean thermal energy conversion facilities and plantships

(a) IN GENERAL.—Under subchapter I of this chapter, the Administrator may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship. This section may be used to guarantee obligations for a total of not more than 5 separate facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

(b) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

(c) ECONOMIC SOUNDNESS.—The required determination of economic soundness under section 53708 of this title applies to a guarantee or commitment to guarantee for that portion of a facility or plantship not to be supported with appropriated Federal funds.

(d) REASONABLENESS OF RISK.—A guarantee or commitment to guarantee may not be made under this section unless the Secretary of Energy, in consultation with the Administrator, certifies to the Administrator that, for the facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the United States Government to a reasonable level. In deciding whether to issue such a certification, the Secretary of Energy shall consider—

(1) the successful demonstration of the technology to be used in the facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and

(2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of the facility or plantship.

(e) AMOUNT OF OBLIGATION.—The total principal amount of an obligation guaranteed under this section may not exceed 87.5 percent of—

(1) the actual cost or depreciated actual cost of the facility or plantship; or

(2) if the facility or plantship is supported with appropriated Federal funds, the total principal amount of that portion of the actual

cost or depreciated actual cost for which the obligor is obligated to secure financing under the agreement between the obligor and the Department of Energy or other Federal agency.

(f) OTEC DEMONSTRATION FUND.—

(1) IN GENERAL.—There is a special sub-account, known as the OTEC Demonstration Fund, in the account established under section 53717(b)(1) of this title.

(2) USE AND OPERATION.—The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section that do not qualify under subchapter I of this chapter. Except as otherwise provided in this section, the OTEC Demonstration Fund shall be operated in the same manner as the parent account. However—

(A) amounts received by the Administrator under subchapter I of this chapter related to guarantees or commitments to guarantee made under this section shall be deposited only in the OTEC Demonstration Fund; and

(B) when obligations issued by the Administrator under section 53723 of this title related to the OTEC Demonstration Fund are outstanding, any amount received by the Administrator under subchapter I of this chapter related to ocean thermal energy conversion facilities or plantships shall be deposited in the OTEC Demonstration Fund.

(3) TRANSFERS.—Assets in the OTEC Demonstration Fund may be transferred to the parent account when and to the extent the balance in the OTEC Demonstration Fund exceeds the total guarantees or commitments to guarantee made under this section then outstanding, plus obligations issued by the Administrator under section 53723 of this title related to the OTEC Demonstration Fund.

(4) LIABILITY.—The parent account is not liable for a guarantee or commitment to guarantee made under this section.

(5) MAXIMUM UNPAID PRINCIPAL AMOUNT.—The total unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time may not exceed \$1,650,000,000.

(g) ISSUANCE AND PAYMENT OF OBLIGATIONS.—Section 53723 of this title applies to the OTEC Demonstration Fund. However, obligations issued by the Administrator under that section related to the OTEC Demonstration Fund shall be payable only from proceeds realized by the OTEC Demonstration Fund.

(h) TAXATION OF INTEREST.—Interest on an obligation guaranteed under this section shall be included in gross income under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

(Pub. L. 109-304, § 8(c), Oct. 6, 2006, 120 Stat. 1620; Pub. L. 109-163, div. C, title XXXV, § 3507(a)(2)(H), Jan. 6, 2006, 119 Stat. 3555; Pub. L. 110-181, div. C, title XXXV, § 3522(a)(9)(D), (b), Jan. 28, 2008, 122 Stat. 598.)