

98-473 in view of later amendment by Pub. L. 98-573. See 1984 Amendment notes below.

1984—Pub. L. 98-573, §213(a)(5)(B), which directed the insertion of “\$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than” after “penal sum of”, was executed to text as superseding the amendment made by Pub. L. 98-473 to reflect the probable intent of Congress. See 1986 Amendment note above.

Pub. L. 98-473, §312, inserted “\$5,000 or 10 per centum of the value of the claimed property, whichever is lower, but not less than,” after “penal sum of”. See 1984 and 1986 Amendment notes above.

Pub. L. 98-573, §213(a)(5)(A), and Pub. L. 98-473, §321, inserted reference to aircraft.

1970—Pub. L. 91-271 substituted references to appropriate customs officer or such customs officer for references to collector wherever appearing.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1609. Seizure; summary forfeiture and sale

(a) In general

If no such claim is filed or bond given within the twenty days hereinbefore specified, the appropriate customs officer shall declare the vessel, vehicle, aircraft, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise dispose of the same according to law, and shall deposit the proceeds of sale, after deducting the expenses described in section 1613 of this title, into the Customs Forfeiture Fund.

(b) Effect

A declaration of forfeiture under this section shall have the same force and effect as a final decree and order of forfeiture in a judicial forfeiture proceeding in a district court of the United States. Title shall be deemed to vest in the United States free and clear of any liens or encumbrances (except for first preferred ship mortgages pursuant to subsection O of section 30 of the Ship Mortgage Act, 1920 (46 U.S.C. App. 961) or any corresponding revision, consolidation, and enactment of such subsection in title 46) from the date of the act for which the forfeiture was incurred. Officials of the various States, insular possessions, territories, and commonwealths of the United States shall, upon application of the appropriate customs officer accompanied by a certified copy of the declaration of forfeiture, remove any recorded liens or encumbrances which apply to such property and issue or reissue the necessary certificates of title, registration certificates, or similar documents to the United States or to any transferee of the United States.

(June 17, 1930, ch. 497, title IV, §609, 46 Stat. 755; June 25, 1938, ch. 679, §28(b), 52 Stat. 1089; Pub. L. 91-271, title III, §301(b), June 2, 1970, 84 Stat. 287; Pub. L. 98-473, title II, §§313, 321, Oct. 12, 1984, 98 Stat. 2054, 2056; Pub. L. 98-573, title II, §213(a)(6), Oct. 30, 1984, 98 Stat. 2985; Pub. L. 100-690, title VII, §7367(b), Nov. 18, 1988, 102 Stat. 4479.)

REFERENCES IN TEXT

Subsection O of section 30 of the Ship Mortgage Act, 1920 (46 U.S.C. App. 961), referred to in subsec. (b), was classified to section 961 of the former Appendix to Title 46, Shipping, and was repealed and partially reenacted in sections 31326(a), 31327, 31328, and 31329 of Title 46, Shipping, by Pub. L. 100-710, title I, §§102(c), 106(b)(2), Nov. 23, 1988, 102 Stat. 4738, 4752. Section 31328 of Title 46 was subsequently repealed by Pub. L. 104-324, title XI, §1113(b)(1), Oct. 19, 1996, 110 Stat. 3970. Section 105(a) of Pub. L. 100-710, set out as a note preceding section 101 of Title 46, provides that a reference to a law replaced by section 102 of Pub. L. 100-710 is deemed to refer to the corresponding provision of Pub. L. 100-710. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §609, 42 Stat. 985. That section was superseded by section 609 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions for sale of the property by the collector if no claim should be filed or bond given, were contained in R.S. §3077, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1988—Pub. L. 100-690 amended section generally. Prior to amendment, section read as follows:

“(a) If no such claim is filed or bond given within the twenty days hereinbefore specified, the appropriate customs officer shall declare the vessel, vehicle, aircraft, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise dispose of the same according to law, and (except as provided in subsection (b) of this section) shall deposit the proceeds of sale, after deducting expenses enumerated in section 1613 of this title into the Customs Forfeiture Fund.

“(b) During the period beginning on October 30, 1984, and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.”

1984—Pub. L. 98-573 designated existing provisions as subsec. (a), inserted reference to aircraft, inserted “(except as provided in subsection (b) of this section)” after “according to law, and”, and added subsec. (b).

Pub. L. 98-473, §321, inserted reference to aircraft.

Pub. L. 98-473, §313, substituted “after deducting expenses enumerated in section 1613 of this title into the Customs Forfeiture Fund” for “after deducting the actual expenses of seizure, publication, and sale in the Treasury of the United States”.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector.

1938—Act June 25, 1938, inserted “or otherwise dispose of the same according to law” after “in the same manner as merchandise abandoned to the United States is sold”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise spe-

cifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

§ 1610. Seizure; judicial forfeiture proceedings

If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 1607 of this title, the appropriate customs officer shall transmit a report of the case, with the names of available witnesses, to the United States attorney for the district in which the seizure was made for the institution of the proper proceedings for the condemnation of such property.

(June 17, 1930, ch. 497, title IV, § 610, 46 Stat. 755; Sept. 1, 1954, ch. 1213, title V, § 506, 68 Stat. 1141; Pub. L. 91-271, title III, § 301(ee), June 2, 1970, 84 Stat. 291; Pub. L. 95-410, title I, § 111(b), Oct. 3, 1978, 92 Stat. 898; Pub. L. 98-473, title II, § 314, Oct. 12, 1984, 98 Stat. 2054; Pub. L. 98-573, title II, § 213(a)(7), Oct. 30, 1984, 98 Stat. 2985; Pub. L. 100-690, title VII, § 7367(c)(3), Nov. 18, 1988, 102 Stat. 4480.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 610, 42 Stat. 985. That section was superseded by section 610 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1988—Pub. L. 100-690 reenacted section without change.

1984—Pub. L. 98-573 substituted “If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 1607 of this title” for “If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than \$10,000”.

Pub. L. 98-473 amended section in manner substantially identical to amendment by Pub. L. 98-573.

1978—Pub. L. 95-410 substituted “\$10,000” for “\$2,500” wherever appearing.

1970—Pub. L. 91-271 substituted reference to appropriate customs officer for reference to collector, and struck out reference to appraiser’s return of value.

1954—Act Sept. 1, 1954, substituted “\$2,500” for “\$1,000”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-271, see section 203 of Pub. L. 91-271, set out as a note under section 1500 of this title.

§ 1611. Seizure; sale unlawful

If the sale of any vessel, vehicle, aircraft, merchandise, or baggage forfeited under the customs laws in the district in which seizure thereof was made be prohibited by the laws of the State in which such district is located, or if a sale may be made more advantageously in any other district, the Secretary of the Treasury may order such vessel, vehicle, aircraft, merchandise, or baggage to be transferred for sale in any customs district in which the sale thereof may be permitted. Upon the request of the Secretary of the Treasury, any court may, in proceedings for the forfeiture of any vessel, vehicle, aircraft, merchandise, or baggage under the customs laws, provide in its decree of forfeiture

that the vessel, vehicle, aircraft, merchandise, or baggage, so forfeited, shall be delivered to the Secretary of the Treasury for disposition in accordance with the provisions of this section. If the Secretary of the Treasury is satisfied that the proceeds of any sale will not be sufficient to pay the costs thereof, he may order a destruction by the customs officers: *Provided*, That any merchandise forfeited under the customs laws, the sale or use of which is prohibited under any law of the United States or of any State, may, in the discretion of the Secretary of the Treasury, be destroyed, or remanufactured into an article that is not prohibited, the resulting article to be disposed of to the profit of the United States only.

(June 17, 1930, ch. 497, title IV, § 611, 46 Stat. 755; Pub. L. 98-473, title II, § 321, Oct. 12, 1984, 98 Stat. 2056; Pub. L. 98-573, title II, § 213(a)(8), Oct. 30, 1984, 98 Stat. 2985.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 611, 42 Stat. 985. That section was superseded by section 611 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

AMENDMENTS

1984—Pub. L. 98-573 and Pub. L. 98-473 inserted reference to aircraft in four places.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective Oct. 15, 1984, see section 214(e) of Pub. L. 98-573, set out as a note under section 1304 of this title.

§ 1612. Seizure; summary sale

(a) Whenever it appears to the Customs Service that any vessel, vehicle, aircraft, merchandise, or baggage seized under the customs laws is liable to perish or to waste or to be greatly reduced in value by keeping, or that the expense of keeping the same is disproportionate to the value thereof, and such vessel, vehicle, aircraft, merchandise, or baggage is subject to section 1607 of this title, and such vessel, vehicle, aircraft, merchandise, or baggage has not been delivered under bond, the Customs Service shall proceed forthwith to advertise and sell the same at auction under regulations to be prescribed by the Secretary of the Treasury. If such vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 1607 of this title, the Customs Service shall forthwith transmit its report of the seizure to the United States attorney, who shall petition the court to order an immediate sale of such vessel, vehicle, aircraft, merchandise, or baggage, and if the ends of justice require it the court shall order such immediate sale, the proceeds thereof to be deposited with the court to await the final determination of the condemnation proceedings. Whether such sale be made by the Customs Service or by order of the court, the proceeds thereof shall be held subject to claims of parties in interest to the same extent as the vessel, vehicle, aircraft, merchandise, or baggage so sold would have been subject to such claim.

(b) If the Customs Service determines that the expense of keeping the vessel, vehicle, aircraft,