

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, §613, 42 Stat. 986. That section was superseded by section 613 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions authorizing applications to the Secretary of the Treasury for remission of forfeitures and restoration of the proceeds of sales, and provisions substantially the same as those in this section concerning the granting of such applications, were contained in R.S. §3078. R.S. §3079 provided that if no application was made within three months the proceeds should be distributed in the same manner as if the property had been condemned and sold under a decree of court. R.S. §3090, as amended by act Feb. 27, 1877, ch. 69, §1, 19 Stat. 248, also specified how the proceeds of fines, penalties, and forfeitures incurred under customs laws, should be applied and distributed. All these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

AMENDMENTS

1986—Subsecs. (c), (d). Pub. L. 99-570 added subsecs. (c) and (d).

1984—Subsec. (a). Pub. L. 98-573, §213(a)(10)(A), and Pub. L. 98-473, §321, inserted reference to aircraft in provisions preceding par. (1).

Subsec. (a)(3). Pub. L. 98-573, §213(a)(10)(B), substituted “in the general fund of the Treasury of the United States” for “with the Treasurer of the United States as a customs or navigation fine”.

Pub. L. 98-473, §316, which directed the substitution of “The residue shall be deposited in the Customs Forfeiture Fund” for “The residue shall be deposited with the Treasurer of the United States as a customs or navigation fine” was not executed to text in view of the later amendment by section 213(a)(10)(B) of Pub. L. 98-573.

Subsec. (b). Pub. L. 98-573, §213(a)(10)(C), inserted “or subsection (a)(1), (a)(3), or (a)(4) of section 1613b of this title”.

1978—Subsec. (a). Pub. L. 95-410, §110(c)(1), designated existing provisions as subsec. (a) and substituted “Except as provided in subsection (b) of this section, any” for “Any”.

Subsec. (b). Pub. L. 95-410, §110(c)(2), added subsec. (b).

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

1938—Act June 25, 1938, inserted “and” at end of subd. (2), struck out subd. (3), and redesignated subd. (4) as (3).

CHANGE OF NAME

“Commissioner of U.S. Customs and Border Protection” substituted for “Commissioner of Customs” wherever appearing in subsec. (a) on authority of section 802(d)(2) of Pub. L. 114-125, set out as a note under section 211 of Title 6, Domestic Security.

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

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities

and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107-296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114-125, and section 802(b) of Pub. L. 114-125, set out as a note under section 211 of Title 6.

Coast Guard transferred to Department of Transportation, and functions, powers, and duties relating to Coast Guard of Secretary of the Treasury and of other officers and offices of Department of the Treasury transferred to Secretary of Transportation by Pub. L. 89-670, §6(b)(1), Oct. 15, 1966, 80 Stat. 938. Section 6(b)(2) of Pub. L. 89-670, however, provided that notwithstanding such transfer of functions, Coast Guard shall operate as part of Navy in time of war or when President directs as provided in former section 3 (now 103) of Title 14. See section 108 of Title 49, Transportation.

For transfer of functions of other officers, employees, and agencies of Department of the Treasury, with certain exceptions, to Secretary of the Treasury with power to delegate, see Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Customs, referred to in text, was an officer in Department of the Treasury. Functions of Coast Guard and Commandant of Coast Guard excepted from transfer when Coast Guard is operating as part of Navy under former sections 1 and 3 (now 101 and 103) of Title 14, Coast Guard.

By Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees, functions of Secretary of Commerce relating to remission and mitigation of fines, penalties and forfeitures incurred for violation of navigation laws were transferred to Commandant of Coast Guard and Commissioner of Customs, subject to direction and control of Secretary of the Treasury, except as otherwise required by law with respect to United States Coast Guard whenever it operates as a part of Navy. Accordingly, references to Commandant of Coast Guard and Commissioner of Customs substituted in text for “the Secretary of Commerce”.

APPROPRIATIONS

Act June 26, 1934, ch. 756, §2, 48 Stat. 1225, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title “Proceeds of goods seized and sold (Customs) (2x322)” effective July 1, 1935, and provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations.

§ 1613a. Repealed. Pub. L. 99-514, title XVIII, § 1888(7), Oct. 22, 1986, 100 Stat. 2925

Section, act June 17, 1930, ch. 497, title IV, §613a, as added and amended Oct. 12, 1984, Pub. L. 98-473, title II, §§317, 2304, 98 Stat. 2054, 2193; Oct. 27, 1986, Pub. L. 99-570, title I, §1152(b)(1), 100 Stat. 3207-12; July 11, 1987, Pub. L. 100-71, title I, §101, 101 Stat. 438, related to es-

establishment, purpose, etc. of the Customs Forfeiture Fund. See section 1613b of this title.

Section 1152(b)(1) of Pub. L. 99-570, which amended this section subsequently to repeal by Pub. L. 99-514, was repealed by section 101 of Pub. L. 100-71, which also provided in part that section 1152(b) of Pub. L. 99-570 be treated as though it had never been enacted.

§ 1613b. Customs Forfeiture Fund

(a) In general

(1) There is established in the Treasury of the United States a fund to be known as the “Customs Forfeiture Fund” (hereafter in this section referred to as the “Fund”), which shall be available to the United States Customs Service, subject to appropriation, with respect to seizures and forfeitures by the United States Customs Service and the United States Coast Guard under any law enforced or administered by those agencies for payment, or for reimbursement to the appropriation from which payment was made, for—

(A) all proper expenses of the seizure (including investigative costs incurred by the United States Customs Service leading to seizures) or the proceedings of forfeiture and sale, including, but not limited to, the expenses of inventory, security, and maintenance of custody of the property, advertisement and sale of the property, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

(B) awards of compensation to informers under section 1619 of this title;

(C) satisfaction of—

(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law, and

(ii) other liens against forfeited property;

(D) amounts authorized by law with respect to remission and mitigation;

(E) claims of parties in interest to property disposed of under section 1612(b) of this title, in the amounts applicable to such claims at the time of seizure; and

(F) equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries under the authority of section 1616a(c) of this title or section 981 of title 18.

(2)(A) Any payment made under subparagraph (C) or (D) of paragraph (1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

(B) Any payment made under subparagraph (F) of paragraph (1) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.

(3) In addition to the purposes described in paragraph (1), the Fund shall be available for—

(A) purchases by the United States Customs Service of evidence of—

(i) smuggling of controlled substances, and

(ii) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

(B) equipment for any vessel, vehicle, or aircraft available for official use by the United States Customs Service to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

(C) the reimbursement, at the discretion of the Secretary, of private persons for expenses incurred by such persons in cooperating with the United States Customs Service in investigations and undercover law enforcement operations;

(D) publication of the availability of awards under section 1619 of this title;

(E) equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Customs Service; and

(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Customs Service.

(b) United States Coast Guard

The Commissioner of U.S. Customs and Border Protection shall make available to the United States Coast Guard, from funds appropriated under subsection (f)(2) in excess of \$10,000,000 for a fiscal year, proceeds in the Fund derived from seizures by the Coast Guard. Funds made available under this subsection may be used for—

(1) equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

(2) equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Coast Guard;

(3) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard; and

(4) expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

(c) Deposits

There shall be deposited into the Fund all forfeited currency and proceeds from forfeiture under any law enforced or administered by the United States Customs Service or the United States Coast Guard and all income from investments made under subsection (d).

(d) Investment

Amounts in the Fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

(e) Annual reports; audits

(1) The Commissioner of U.S. Customs and Border Protection shall transmit to the Con-