

Sec.

Editorial Notes

AMENDMENTS

2017—Pub. L. 115–91, div. C, title XXXV, §§ 3502(b)(8), 3504(e), Dec. 12, 2017, 131 Stat. 1911, 1913, added items 56308 to 56312.

§ 56301. General authority

During a national emergency declared by Presidential proclamation, or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may requisition or purchase, or requisition or charter the use of, a vessel owned by citizens of the United States, a documented vessel, or a vessel under construction in the United States.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1654.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|--------------------------------------|---|
| 56301 | 46 App.:1242(a) (1st, 2d sentences). | June 29, 1936, ch. 858, title IX, § 902(a) (1st, 2d sentences), 49 Stat. 2015; Pub. L. 97–31, § 12(131), Aug. 6, 1981, 95 Stat. 165; Pub. L. 100–710, title I, § 104(c), Nov. 23, 1988, 102 Stat. 4750. |

The words “or other watercraft” are omitted because of the definition of “vessel” in chapter 1 of the revised title. The words “The termination of any emergency so declared shall be announced by a further proclamation by the President” are omitted as superseded by the National Emergencies Act (50 U.S.C. 1601 et seq.).

§ 56302. Charter terms

(a) IN GENERAL.—If a vessel is requisitioned for use but not ownership under this chapter, the Secretary of Transportation, at the time of requisition or as soon thereafter as the situation allows, shall offer the person entitled to possession of the vessel a charter containing—

(1) the terms the Secretary believes should govern the relationship between the United States Government and the person; and

(2) the rate of hire the Secretary considers just compensation for the use of the vessel and the services required under the charter.

(b) REFUSAL TO ACCEPT.—If the person does not accept the charter and rate of hire, the parties shall proceed as provided in section 56304 of this title.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1654.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------------|--|
| 56302 | 46 App.:1242(c) (1st sentence). | June 29, 1936, ch. 858, title IX, § 902(c) (1st sentence); as added Aug. 7, 1939, ch. 555, § 3, 53 Stat. 1255; Pub. L. 97–31, § 12(131), Aug. 6, 1981, 95 Stat. 165. |

In subsection (a), the words “requisitioned for use but not ownership under this chapter” are substituted for “taken and used under authority of this section, but the ownership thereof is not required by the United States” to eliminate unnecessary words. The word “requisition” is substituted for “taking”, and the word “vessel” is substituted for “such property”, for consistency.

Subsection (b) is added because the provisions about disputed compensation, for both charter use and other takings, are consolidated in section 56304 of the revised title to avoid repetition.

§ 56303. Compensation

(a) IN GENERAL.—As soon as practicable, the Secretary of Transportation shall determine and pay just compensation for a vessel requisitioned under this chapter.

(b) FACTORS NOT AFFECTING VALUE.—The value of a vessel may not be considered enhanced by the circumstances requiring its requisition. Consequential damages arising from the requisition may not be paid.

(c) EFFECT OF CONSTRUCTION-DIFFERENTIAL SUBSIDY.—

(1) IF PAID.—If a construction-differential subsidy has been paid for the vessel, the value of the vessel at the time of requisition shall be determined under section 802 of the Merchant Marine Act, 1936.

(2) IF NOT PAID.—If a construction-differential subsidy has not been paid for the vessel, the value of any national defense features previously paid for by the United States Government shall be excluded.

(d) LOSS OR DAMAGE DURING CHARTER.—If a vessel is lost or damaged by a risk assumed by the Government under the charter, but a valuation for the vessel or a means of compensation has not been agreed to, the Secretary shall pay just compensation for the loss or damage, to the extent the person is not reimbursed through insurance.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1655.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|--|---|
| 56303(a) | 46 App.:1242(a) (3d sentence words before 2d comma), (d) (1st par. words before 2d comma). | June 29, 1936, ch. 858, title IX, § 902(a) (3d, last sentences), (b), (d) (1st par. words before 2d comma), 49 Stat. 2015, 2016; Aug. 7, 1939, ch. 555, § 3, 53 Stat. 1255; Aug. 3, 1956, ch. 929, § 3, 70 Stat. 985; Pub. L. 97–31, § 12(131), Aug. 6, 1981, 95 Stat. 165. |
| 56303(b) | 46 App.:1242(a) (3d sentence words after 2d comma, last sentence). | |
| 56303(c) | 46 App.:1242(b). | |
| 56303(d) | 46 App.:1242(c) (last sentence). | |

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REFERENCES IN TEXT

Section 802 of the Merchant Marine Act, 1936, referred to in subsec. (c)(1), is section 802 of act June 29, 1936, ch. 858, 49 Stat. 1985, which is set out as a note under section 53101 of this title.

§ 56304. Disputed compensation

If the person entitled to compensation disputes the amount of just compensation determined by the Secretary of Transportation under this chapter, the Secretary shall pay the person, as a tentative advance, 75 percent of the amount determined. The person may bring a civil action against the United States to recover just compensation. If the tentative advance paid under

this section is greater than the amount of the court's judgment, the person shall refund the difference.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1655.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---|--|
| 56304 | 46 App.:1242(c) (2d sentence), (d) (1st par. words after 2d comma). | June 29, 1936, ch. 858, title IX, §902(c) (2d sentence), (d) (1st par. words after 2d comma); as added Aug. 7, 1939, ch. 555, §3, 53 Stat. 1256; Aug. 3, 1956, ch. 929, §§2, 3, 70 Stat. 985; Pub. L. 97-31, §12(131), Aug. 6, 1981, 95 Stat. 165. |

This section is substituted for the source provisions to eliminate unnecessary words.

§ 56305. Vessel encumbrances

(a) IN GENERAL.—The existence of an encumbrance on a vessel does not prevent the requisition of the vessel under this chapter.

(b) DEPOSIT IN TREASURY.—

(1) IN GENERAL.—If an encumbrance exists, the Secretary of Transportation may deposit part of the compensation or advance of compensation to be paid under this chapter (but not more than the total amount of all encumbrances) in a fund in the Treasury. The Secretary shall publish notice of the creation of the fund in the Federal Register.

(2) AVAILABILITY OF AMOUNTS DEPOSITED.—Amounts deposited in the fund shall be available to pay the compensation or any of the encumbrances (including encumbrances stipulated to in a court of the United States or a State) existing at the time the vessel was requisitioned.

(c) CIVIL ACTION.—

(1) IN GENERAL.—Within 6 months after publication of notice under subsection (b), the holder of an encumbrance may bring a civil action in admiralty, according to the principles of libels in rem, against the fund.

(2) VENUE.—The action must be brought in the district court of the United States—

(A) from whose custody the vessel was or may be requisitioned; or

(B) in whose district the vessel was located when it was requisitioned.

(3) SERVICE OF PROCESS.—Service of process shall be made on the appropriate United States Attorney, the Attorney General, and the Secretary, in the manner provided by the Federal Rules of Civil Procedure (28 App. U.S.C.). Notice of the action shall be given to all interested persons as ordered by the court.

(4) AS BETWEEN PRIVATE PARTIES.—The action shall proceed and be determined according to the principles of law and the rules of practice applicable in like cases between private parties.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1655.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|------------------------------|---|
| 56305 | 46 App.:1242(d) (last par.). | June 29, 1936, ch. 858, title IX, §902(d) (last par.), as added Mar. 24, 1943, ch. 26, §3(d), 57 Stat. 49; Pub. L. 97-31, §12(131), Aug. 6, 1981, 95 Stat. 165. |

In this section, the words “encumbrance” and “encumbrances” are substituted for “any valid claim by way of mortgage or maritime claim or attachment lien” and “any valid claim by way of mortgage or maritime lien or attachment lien” to eliminate unnecessary words.

In subsection (b)(1), the words “The Secretary shall publish notice of the creation of the fund in the Federal Register” are added for clarity, based on language barring a civil action not brought within 6 months after publication of such a notice.

In subsection (c)(1), the words “Within 6 months after publication of notice under subsection (b)” are substituted for “prior to June 30, 1943, or within six months after the first such deposit with the Treasurer and publication of notice thereof in the Federal Register, whichever date is later” for clarity and to eliminate obsolete language.

Subsection (c)(3) is substituted for “and such suit shall be commenced in the manner provided by section 742 of this Appendix and service of process shall be made in the manner therein provided by service upon the United States attorney and by mailing by registered mail to the Attorney General and the Secretary of Transportation and due notice shall under order of the court be given to all interested persons” because the relevant sentences in 46 App. U.S.C. 742 were struck by an amendment in 1996. See generally *Henderson v. United States*, 517 U.S. 654, 116 S. Ct. 1638 (1996).

In subsection (c)(4), the words “any decree in said suit shall be paid out of the first and all subsequent deposits of compensation” and “any decree shall be subject to appeal and revision as now provided in other cases of admiralty and maritime jurisdiction” are omitted as surplus.

§ 56306. Use and transfer of vessels

(a) IN GENERAL.—The Secretary of Transportation may repair, recondition, reconstruct, operate, or charter for operation, a vessel acquired under this chapter.

(b) TRANSFER TO OTHER AGENCIES.—The Secretary may transfer the possession or control of a vessel acquired under this chapter to another department or agency of the United States Government on terms and conditions approved by the President. The department or agency shall promptly reimburse the Secretary for expenditures for just compensation, purchase price, charter hire, repairs, reconditioning, or reconstruction.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1656.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--|
| 56306 | 46 App.:1242(e). | June 29, 1936, ch. 858, title IX, §902(e); as added Aug. 7, 1939, ch. 555, §3, 53 Stat. 1256; Pub. L. 97-31, §12(131), Aug. 6, 1981, 95 Stat. 165. |

In this section, the word “vessel” is substituted for “property” for consistency in the chapter.

In subsection (b), the words “Such reimbursements shall be deposited in the construction fund established