

**TITLE 16 - CONSERVATION**  
**CHAPTER 9 - FISH AND WILDLIFE SERVICE****§ 742c. Loans for financing or refinancing of cost of purchasing, constructing, equipping, maintaining, repairing, or operating commercial fishing vessels or gear****(a) Authorization**

The Secretary of the Interior is authorized, under such rules and regulations and under such terms and conditions as he may prescribe, to make loans for financing or refinancing of the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used commercial fishing vessels or gear.

**(b) Conditions**

Any loans made under the provisions of this section shall be subject to the following restrictions:

- (1) Bear an interest rate of not less than (a) a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity, plus (b) such additional charge, if any, toward covering other costs of the program as the Secretary may determine to be consistent with its purpose.
- (2) Mature in not more than ten years, except that where a loan is for all or part of the costs of constructing a new fishing vessel, such period may be fourteen years.
- (3) No financial assistance shall be extended pursuant to this section unless reasonable financial assistance applied for is not otherwise available on reasonable terms.
- (4) Loans shall be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require considering the objectives of this section which are to upgrade commercial fishing vessels and gear and to provide reasonable financial assistance not otherwise available to commercial fishermen. The proposed collateral for a loan must be of such a nature that, when considered with the integrity and ability of the management, and the applicant's past and prospective earnings, repayment of the loan will be reasonably assured.
- (5) The applicant shall possess the ability, experience, resources, and other qualifications necessary to enable him to operate and maintain new or used commercial fishing vessels or gear.
- (6) Before the Secretary approves a loan for the purchase or construction of a new or used vessel which will not replace an existing commercial fishing vessel, he shall determine that the applicant's contemplated operation of such vessel in a fishery will not cause economic hardship or injury to the efficient vessel operators already operating in that fishery.
- (7) An applicant for a fishery loan must be a citizen or national of the United States.
- (8) Within the meaning of this section, a corporation, partnership, or association shall not be deemed to be a citizen of the United States unless the Secretary determines that it satisfactorily meets all of the requirements set forth in section 50501 of title 46 for determining the United States citizenship of a corporation, partnership, or association operating a vessel in the coastwise trade.
- (9) **(A)** The nationality of an applicant shall be established to the satisfaction of the Secretary. Within the meaning of this section, no corporation, partnership, or association organized under the laws of American Samoa shall be deemed a national of the United States unless 75 per centum of the interest therein is owned by nationals of the United States, citizens of the United States, or both, and in the case of a corporation, unless its president or other chief executive officer and the chairman of its board are nationals or citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are nonnationals and noncitizens.  
**(B)** Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by nationals of the United States, citizens of the United States, or both,

- (i) if the title to 75 per centum of its stock is not vested in such nationals and citizens free from any trust or fiduciary obligation in favor of any person not a national or citizen of the United States; or
- (ii) if 75 per centum of the voting power in such corporation is not vested in nationals of the United States, citizens of the United States, or both; or
- (iii) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a national or citizen of the United States; or
- (iv) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a national or citizen of the United States.

**(c) Fisheries loan fund; interest payments on appropriations available as capital to the fund less average undispersed cash balance**

There is created a fisheries loan fund, which shall be used by the Secretary as a revolving fund to make loans for financing and refinancing under this section. Any funds received by the Secretary on or before September 30, 1986, in payment of principal or interest on any loans so made shall be deposited in the fund and be available for making additional loans under this section. Any funds received in the fisheries loan fund after September 30, 1986, shall be covered into the Treasury as miscellaneous receipts. There is authorized to be appropriated to the fisheries loan fund the sum of \$20,000,000 to provide initial capital.

**(d) Modification of loan contract**

The Secretary, subject to the specific limitations in this section, may consent to the modification, with respect to the rate of interest, time of payment of any installment of principal, or security, of any loan contract to which he is a party.

**(e) Chartering vessels; loans to Alaskan earthquake victims; termination date**

The Secretary is authorized under such terms and conditions and pursuant to regulations prescribed by him to use the funds appropriated under this section to make loans to commercial fishermen for the purpose of chartering fishing vessels pending the construction or repair of vessels lost, destroyed, or damaged by the earthquake of March 27, 1964, and subsequent tidal waves related thereto: Provided, That any loans made under this subsection shall only be repaid from the net profits of the operations of such chartered vessels, which profits shall be reduced by such reasonable amount as determined by the Secretary for the salary of the fishermen chartering such vessels. The funds authorized herein shall not be available for such loans after June 30, 1966.

(Aug. 8, 1956, ch. 1036, § 4, 70 Stat. 1121; Pub. L. 85–888, Sept. 2, 1958, 72 Stat. 1710; Pub. L. 88–309, § 9, May 20, 1964, 78 Stat. 199; Pub. L. 89–85, §§ 1–4, July 24, 1965, 79 Stat. 262; Pub. L. 91–279, § 9, June 12, 1970, 84 Stat. 309; Pub. L. 91–387, §§ 1, 2, Aug. 24, 1970, 84 Stat. 829; Pub. L. 94–273, § 2(8), Apr. 21, 1976, 90 Stat. 375; Pub. L. 96–478, § 16(a), Oct. 21, 1980, 94 Stat. 2303; Pub. L. 97–347, § 1, Oct. 18, 1982, 96 Stat. 1652; Pub. L. 98–44, title I, § 103(a)(1), July 12, 1983, 97 Stat. 216; Pub. L. 98–498, title IV, § 430(1), Oct. 19, 1984, 98 Stat. 2310; Pub. L. 99–659, title IV, § 409, Nov. 14, 1986, 100 Stat. 3740.)

**Codification**

In subsec. (b)(8), “section 50501 of title 46” substituted for “section 2 of the Shipping Act, 1916, as amended,” on authority of Pub. L. 109–304, § 18(c), Oct. 6, 2006, 120 Stat. 1709, which Act enacted section 50501 of Title 46, Shipping.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscp.html>).

## Amendments

1986—Subsec. (c). Pub. L. 99–659 amended third sentence generally, striking out “and any balance remaining therein at the close of September 30, 1986 (at which time the fund shall cease to exist),” after “1986.”

1984—Subsec. (c). Pub. L. 98–498 substituted “September 30, 1986” for “September 30, 1984” wherever appearing.

1983—Subsec. (c). Pub. L. 98–44 substituted “September 30, 1984” for “September 30, 1983” wherever appearing.

1982—Subsec. (c). Pub. L. 97–347 substituted “September 30, 1983” for “September 30, 1982” wherever appearing.

1980—Subsec. (c). Pub. L. 96–478 substituted “September 30, 1982” for “September 30, 1980” wherever appearing and struck out interest payment provisions respecting, payment at close of each fiscal year from fisheries loan fund into miscellaneous receipts of the Treasury on cumulative amount of appropriations available as capital to the fund from and after July 1, 1965, less average undispersed balance in the fund during the year, determination of interest rate on basis of average market yield during month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to average maturity of loans made from the fund, and interest payment deferrals approved by the Secretary of the Treasury subject to interest on deferred amounts.

1976—Subsec. (c). Pub. L. 94–273 substituted “September” for “June” wherever appearing.

1970—Subsec. (b)(2). Pub. L. 91–279 provided maturity period of fourteen years for loans for all or part of costs of constructing new fishing vessels.

Subsec. (b)(7). Pub. L. 91–387, § 2, permitted a national of the United States to be an applicant for a fishery loan.

Subsec. (b)(8). Pub. L. 91–387, § 2, substituted provision for Secretary’s determination of United States citizenship of a corporation, partnership, or association by satisfactorily meeting all requirements set forth in section 802 of title 46 for determination of citizenship of such entity operating a vessel in coastwise trade, for prior provision for establishment of such citizenship within meaning of section 802 of title 46 to satisfaction of the Secretary.

Subsec. (b)(9). Pub. L. 91–387, § 2, added par. (9).

Subsec. (c). Pub. L. 91–387, § 1, extended term for making fisheries loans, substituting “June 30, 1980” for “June 30, 1970” wherever appearing.

1965—Subsec. (a). Pub. L. 89–85, § 1, substituted “financing or refinancing of the cost of purchasing, constructing, equipping, maintaining, repairing, or operating new or used commercial fishing vessels or gear” for “financing and refinancing of operations, maintenance, replacement, repair, and equipment of fishing gear and vessels” and struck out provision for research into basic problems of fisheries.

Subsec. (b). Pub. L. 89–85, §§ 2, 3, substituted in par. (1) provision respecting determination of interest rate taking into consideration average market yield on outstanding Treasury obligations of comparable maturity plus additional charge toward coverage of other costs of program for former provision prescribing an interest rate of not less than 3 per centum per annum and added pars. (4) to (8), respectively.

Subsec. (c). Pub. L. 89–85, § 4, extended term for making fisheries loans from June 30, 1965, to June 30, 1970, required Secretary to pay at end of each fiscal year into miscellaneous receipts of the Treasury interest on cumulative amount of appropriations available as capital to fund after July 1, 1965, less average undispersed cash balance in fund during the year, provided formula for determination of rate of interest, and authorized deferral of interest payments but with payment of interest on deferred payments.

1964—Subsec. (e). Pub. L. 88–309 added subsec. (e).

1958—Subsec. (c). Pub. L. 85–888 increased authorization for \$10,000,000 to \$20,000,000.

## Effective Date of 1980 Amendment

Section 16(b) of Pub. L. 96–478 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on September 1, 1980.”

## Effective Date of 1970 Amendment; Fisheries Loan Fund Available for Loans From July 1, 1970 to Close of June 30, 1980

Section 3 of Pub. L. 91–387 provided that: “The provisions of this Act [amending this section] shall be effective July 1, 1970. Notwithstanding the provisions of section 4(c) of the Fish and Wildlife Act of 1956, as amended [subsec. (c) of this section], any balance remaining in the fisheries loan fund at the close of June 30, 1970, shall be available to make loans for the purposes of section 4 of said Act [this section] from July 1, 1970, to the close of June 30, 1980.”

### **Effective Date of 1965 Amendment; Remaining Funds; Availability for Loans**

Section 5 of Pub. L. 89–85 provided that: “The provisions of this Act [amending this section] shall be effective July 1, 1965. Notwithstanding the provisions of section 4(c) of the Fish and Wildlife Act of 1956, as amended [subsec. (c) of this section], any balance remaining in the fisheries loan fund at the close of June 30, 1965, shall be available to make loans for the purposes of section 4 of said Act [this section] from July 1, 1965, to the close of June 30, 1970.”

### **Transfer of Functions**

Transfer of functions to Secretary of Commerce from Secretary of the Interior by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, see note set out under section 742b of this title.

### **Loans Under Fish and Wildlife Act of 1956**

Pub. L. 96–561, title II, § 221, Dec. 22, 1980, 94 Stat. 3295, as amended by Pub. L. 98–44, title I, § 103(b), July 12, 1983, 97 Stat. 216; Pub. L. 98–498, title IV, § 431, Oct. 19, 1984, 98 Stat. 2310, provided that during the period beginning Dec. 22, 1980, through the close of Sept. 30, 1986, the Secretary of Commerce could make loans from the fisheries loan fund established under subsec. (c) of this section only for the purpose of assisting obligors to avoid default on obligations covering fishing vessels and to cover operating losses.