

TITLE 49 - TRANSPORTATION
SUBTITLE III - GENERAL AND INTERMODAL PROGRAMS
CHAPTER 53 - PUBLIC TRANSPORTATION

§ 5334. Administrative provisions

- (a) **General Authority.**— In carrying out this chapter, the Secretary of Transportation may—
- (1) prescribe terms for a project under sections 5307 and 5309–5311 of this title (except terms the Secretary of Labor prescribes under section 5333 (b) of this title);
 - (2) sue and be sued;
 - (3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;
 - (4) buy property related to a loan under this chapter;
 - (5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;
 - (6) sell, exchange, or lease property, a security, or an obligation;
 - (7) obtain loss insurance for property and assets the Secretary of Transportation holds;
 - (8) consent to a modification in an agreement under this chapter;
 - (9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter;
 - (10) collect fees to cover the costs of training or conferences, including costs of promotional materials, sponsored by the Federal Transit Administration to promote public transportation and credit amounts collected to the appropriation concerned; and
 - (11) issue regulations as necessary to carry out the purposes of this chapter.
- (b) **Prohibitions Against Regulating Operations and Charges.**—
- (1) **In general.**— Except for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.
 - (2) **Limitation on statutory construction.**— Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.
- (c) **Procedures for Prescribing Regulations.**—
- (1) The Secretary of Transportation shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semiannual regulatory agenda that lists regulatory activities of the Federal Transit Administration. The Secretary shall submit the agenda to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate on the day the agenda is published.
 - (2) Except for emergency regulations, the Secretary of Transportation shall give interested parties at least 60 days to participate in a regulatory proceeding under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.
 - (3) An emergency regulation ends 120 days after it is issued.

- (4) The Secretary of Transportation shall comply with this section (except subsection (i)) and sections 5318 (e), 5323 (a)(2), 5325 (a), 5325 (b), and 5325 (f) when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.
- (d) Budget Program and Set of Accounts.**— The Secretary of Transportation shall—
- (1) submit each year a budget program as provided in section 9103 of title 31; and
 - (2) maintain a set of accounts for audit under chapter 35 of title 31.
- (e) Depository and Availability of Amounts.**— The Secretary of Transportation shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.
- (f) Binding Effect of Financial Transaction.**— A financial transaction of the Secretary of Transportation under this chapter and a related voucher are binding on all officers and employees of the United States Government.
- (g) Dealing With Acquired Property.**— Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary of Transportation may deal with property acquired under subsection (a)(3) or (4) of this section in any way. However, this subsection does not—
- (1) deprive a State or political subdivision of a State of jurisdiction of the property; or
 - (2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.
- (h) Transfer of Assets No Longer Needed.**—
- (1) If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. The Secretary may authorize a transfer for a public purpose other than public transportation only if the Secretary decides—
 - (A) the asset will remain in public use for at least 5 years after the date the asset is transferred;
 - (B) there is no purpose eligible for assistance under this chapter for which the asset should be used;
 - (C) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and
 - (D) through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.
 - (2) A decision under paragraph (1) of this section must be in writing and include the reason for the decision.
 - (3) This subsection is in addition to another law related to using and disposing of a facility or equipment under an assistance agreement.
 - (4) **Proceeds from the sale of transit assets.**—
 - (A) **In general.**— When real property, equipment, or supplies acquired with assistance under this chapter are no longer needed for public transportation purposes as determined under the applicable assistance agreement, the Secretary may authorize the sale, transfer, or lease of the assets under conditions determined by the Secretary and subject to the requirements of this subsection.
 - (B) **Use.**— The net income from asset sales, uses, or leases (including lease renewals) under this subsection shall be used by the recipient to reduce the gross project cost of other capital projects carried out under this chapter.

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

(C) Relationship to other authority.— The authority of the Secretary under this subsection is in addition to existing authorities controlling allocation or use of recipient income otherwise permissible in law or regulation in effect prior to the date of enactment of this paragraph.

(i) Transfer of Amounts and Non-Government Share.—

(1) Amounts made available for a public transportation project under title 23 shall be transferred to and administered by the Secretary of Transportation under this chapter. Amounts made available for a highway project under this chapter shall be transferred to and administered by the Secretary under title 23.

(2) The provisions of title 23 related to the non-Government share apply to amounts under title 23 used for public transportation projects. The provisions of this chapter related to the non-Government share apply to amounts under this chapter used for highway projects.

(j) Relationship to Other Laws.—

(1) Section 9107 (a) of title 31 applies to the Secretary of Transportation under this chapter.

(2) Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a contract for more than \$1,000 for services or supplies related to property acquired under this chapter.

(k) Notification of Pending Discretionary Grants.— Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling \$1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives.

(l) Agency Statements.—

(1) **In general.**— The Administrator of the Federal Transit Administration shall follow applicable rulemaking procedures under section 553 of title 5 before the Federal Transit Administration issues a statement that imposes a binding obligation on recipients of Federal assistance under this chapter.

(2) **Binding obligation defined.**— In this subsection, the term “binding obligation” means a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.

(Pub. L. 103–272, § 1(d), July 5, 1994, 108 Stat. 836; Pub. L. 104–287, § 5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 104–316, title I, § 127(a), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105–178, title III, §§ 3023(c), 3025 (a), (b)(1), (c), June 9, 1998, 112 Stat. 364, 365; Pub. L. 109–59, title III, §§ 3002(b)(4), 3032, Aug. 10, 2005, 119 Stat. 1545, 1626.)

Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5334(a)	49 App.:1608(a) (1st sentence related to 12:1749a(c) (1)–(3) (1st sentence), (4)–(8), (10)).	July 9, 1964, Pub. L. 88–365, § 12(a), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89–562, § 2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90–19, § 20(a), 81 Stat. 25.
5334(b)	49 App.:1608(i)(1), (2).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(i)(1), (2); added Apr. 2, 1987, Pub. L. 100–17, § 318(a), 101 Stat. 233.
	49 App.:1608(i)(3).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(i)(3); added Dec. 18, 1991, Pub. L. 102–240, § 3017, 105 Stat. 2108.

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5334(c)	49 App.:1608(a) (1st sentence related to 12:1749a(a) (less proviso)).	
5334(d)	49 App.:1608(a) (1st sentence related to 12:1749a(b), last sentence).	
5334(e)	49 App.:1608(a) (1st sentence related to 12:1749a(a) (proviso)).	
5334(f)	49 App.:1608(a) (1st sentence related to 12:1749a(c)(3) (last sentence)).	
5334(g)	49 App.:1608(k).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 12(k); added Dec. 18, 1991, Pub. L. 102–240, § 3018, 105 Stat. 2108.
5334(h)	49 App.:1607(k).	July 9, 1964, Pub. L. 88–365, 78 Stat. 302, § 8(k); added Nov. 6, 1978, Pub. L. 95–599, § 305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100–17, § 310, 101 Stat. 227; restated Dec. 18, 1991, Pub. L. 102–240, § 3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102–388, § 502(a), 106 Stat. 1566.
5334(i)	49 App.:1608 (note) (related to authority and functions reserved to Secretary of Housing and Urban Development).	Reorg. Plan No. 2 of 1968, eff. June 30, 1968, § 1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development), 82 Stat. 1369.
5334(j)(1)	49 App.:1608(a) (1st sentence related to 12:1749a(e)).	
5334(j)(2)	49 App.:1608(a) (1st sentence related to 12:1749a(d)).	

In subsections (c)–(f), and (j), the relevant substantive provisions of 12:1749a are substituted for “shall . . . have the functions, powers, and duties set forth in section 1749a of title 12, except subsections (c)(2) and (f) of such section” for clarity. The reference to subsection (c)(2) is omitted as obsolete because section 201(d)(1) of the Housing and Community Development Technical Amendments Act of 1984 (Public Law 98–479, 98 Stat. 2228) repealed 12:1749a(c)(2). The words “(in addition to any authority otherwise vested in him)” are omitted as surplus.

In subsection (a), the text of 49 App.:1608(a) (1st sentence related to 12:1749a(c)(8)) is omitted as obsolete. Before clause (1), the words “carrying out this chapter” are substituted for “the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter” to eliminate unnecessary words. In clause (1), the words “(except terms the Secretary of Labor prescribes under section 5333 (b) of this title)” are added for clarity because 49 App.:1608(a) only applies to the Secretary of Transportation and does not supersede the responsibility of the Secretary of Labor. In clause (3), the word “civil” is added for clarity. The words “contract, or other” are omitted as surplus. In clause (4), the words “bid for and . . . at any foreclosure or any other sale” are omitted as surplus. In clause (6), the words “at public or private sale”, “real or personal”, and “upon such terms as he may fix” are omitted as surplus. Clause (8) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(c)(7)) to eliminate unnecessary words. In clause (9), the word “provisions” is omitted as surplus. The words “carry out this chapter” are substituted for “assure that the purposes of this subchapter will be achieved” to eliminate unnecessary words.

In subsection (b), the words “regulatory” and “regulatory proceeding” are substituted for “rulemaking” for consistency in the revised title and because “rule” and “regulation” are synonymous.

In subsection (b)(1), the words “Federal Transit Administration” are substituted for “Urban Mass Transportation Administration” because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 2088). The words “also” and “required by the first sentence of this paragraph” are omitted as surplus.

In subsection (c), before clause (1), the words “In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter . . . notwithstanding the provisions of any other law” are omitted as surplus. In clause (1), the words “prepare . . . and” and “for wholly owned Government corporations” are omitted as surplus.

Subsection (d) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(b) and last sentence) to eliminate unnecessary words.

In subsection (e), the words “such . . . as the making of loans” are omitted as surplus. The words “under this chapter” are added for clarity. The word “related” is substituted for “in connection with such financial transactions” to eliminate unnecessary words. The words “approved by the Secretary” are omitted as surplus. The word “binding” is substituted for “final and conclusive” to eliminate unnecessary words. The words “and employees” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (f), before clause (1), the words “in any way” are substituted for “complete, administer, remodel and convert, dispose of, lease and otherwise” to eliminate unnecessary words. In clause (1), the words “civil or criminal” are omitted as surplus. In clause (2), the words “political subdivision of a State” are substituted for “local” for consistency.

In subsection (g)(1), before clause (A), the words “facilities and equipment and other”, “(including land)”, and “first” are omitted as surplus.

In subsection (g)(3), the words “and not in lieu of” are omitted as surplus.

Subsection (i) is substituted for section 1 (a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development) of Reorganization Plan No. 2 of 1968 to eliminate unnecessary words. The reference to 49 App.:1602(c)(1) is translated as a reference to 49 App.:1602(e)(1) because section 2(1) of the Urban Mass Transportation Assistance Act of 1970 (Public Law 91–453, 84 Stat. 962) redesignated subsection (c) as subsection (e). The references to 49 App.:1603(a) (1st sentence), 1604, and 1607c(b) and former 49 App.:1607a are omitted as obsolete because of section 103(a) of the National Mass Transportation Act of 1974 (Public Law 93–503, 88 Stat. 1567) and sections 303(b), 305(a), and 307 of the Federal Public Transportation Act of 1978 (Public Law 95–599, 92 Stat. 2737, 2743, 2747). Reference to 49 App.:1607c(c) is omitted because it was enacted after the Reorganization Plan and was not intended to be within the scope of the Plan.

Subsection (j)(1) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(e)) to eliminate unnecessary words.

References in Text

The date of enactment of this paragraph, referred to in subsec. (h)(4)(C), is the date of enactment of Pub. L. 105–178, which was approved June 9, 1998.

Amendments

2005—Subsec. (a)(10). Pub. L. 109–59, § 3002(b)(4), substituted “public transportation” for “mass transportation”.

Subsec. (a)(11). Pub. L. 109–59, § 3032(1), added par. (11).

Subsec. (b). Pub. L. 109–59, § 3032(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 109–59, § 3032(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(4). Pub. L. 109–59, § 3032(5), added par. (4) and struck out former par. (4) which read as follows: “The Secretary of Transportation shall comply with this section (except subsections (h) and (i)) and sections 5323 (a)(2), 5323 (c), 5323 (e), 5324 (c), 5325 (a), 5325 (b), 5326 (c), and 5326 (d) when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.”

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

Subsecs. (d) to (f). Pub. L. 109–59, § 3032(3), redesignated subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 109–59, § 3032(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(1), (4)(A). Pub. L. 109–59, § 3002(b)(4), substituted “public transportation” for “mass transportation”.

Subsec. (h). Pub. L. 109–59, § 3032(3), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Pub. L. 109–59, § 3002(b)(4), substituted “public transportation” for “mass transportation” in pars. (1) and (2).

Subsec. (i). Pub. L. 109–59, § 3032(2), (3), redesignated subsec. (h) as (i) and struck out heading and text of former subsec. (i). Text read as follows: “The Secretary of Housing and Urban Development shall—

“(1) carry out section 5312 (a) and (b)(1) of this title related to—

“(A) urban transportation systems and planned development of urban areas; and

“(B) the role of transportation planning in overall urban planning; and

“(2) advise and assist the Secretary of Transportation in making findings under section 5323 (a)(1)(A) of this title.”

Subsecs. (k), (l). Pub. L. 109–59, § 3032(6), added subsecs. (k) and (l).

1998—Pub. L. 105–178, § 3025(b)(1), inserted “provisions” after “Administrative” in section catchline.

Subsec. (a)(10). Pub. L. 105–178, § 3025(a), added par. (10).

Subsec. (b)(4). Pub. L. 105–178, § 3023(c), substituted “5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d)” for “5323(a)(2), (c) and (e), 5324(c), and 5325 of this title”.

Subsec. (g)(4). Pub. L. 105–178, § 3025(c), added par. (4).

1996—Subsec. (b)(1). Pub. L. 104–287 substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

Subsec. (c)(2). Pub. L. 104–316 substituted “for” for “the Comptroller General shall”.