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TITLE 31--MONEY AND FINANCE

SUBTITLE VI--MISCELLANEOUS

CHAPTER 93--SURETIES AND SURETY BONDS

Sec. 9303. Use of Government obligations instead of surety bonds

(a) If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond. The obligation shall--

(1) be given to the official having authority to approve the surety bond;

(2) be in an amount equal at par value to the amount of the required surety bond; and

(3) authorize the official receiving the obligation to collect or sell the obligation if the person defaults on a required condition.

(b)(1) An official receiving a Government obligation under subsection (a) of this section may deposit it with--

(A) the Secretary of the Treasury;

(B) a Federal reserve bank; or

(C) a depositary designated by the Secretary.

(2) The Secretary, bank, or depositary shall issue a receipt that describes the obligation deposited.

(c) Using a Government obligation instead of a surety bond for security is the same as using--

(1) a personal or corporate surety bond;

(2) a certified check;

(3) a bank draft;

(4) a post office money order; or

(5) cash.

(d) When security is no longer required, a Government obligation given instead of a surety bond shall be returned to the person giving the obligation. If a person, supplying labor or material to a contractor defaulting under sections 3131 and 3133 of title 40, files with the United States Government the application and affidavit provided under section 3133(a) of title 40, the Government--

(1) may return to the contractor the Government obligation given as security (or proceeds of the Government obligation given) under sections 3131 and 3133 of title 40, only after the 90-day period for bringing a civil action under section 3133(b) of title 40; and

(2) if a civil action is brought in the 90-day period, shall hold the Government obligation or the proceeds subject to the order of the court having jurisdiction of the action.

(e) This section does not affect the--
(1) priority of a claim of the Government against a Government obligation given under this section;
(2) right or remedy of the Government for default on an obligation provided under--
(A) sections 3131 and 3133 of title 40; or
(B) this section;

(3) authority of a court over a Government obligation given as security in a civil action; and
(4) authority of an official of the Government authorized by another law to receive a Government obligation as security.

(f) To avoid frequent substitution of Government obligations, the Secretary may prescribe regulations limiting the effect of this section to a Government obligation maturing more than one year after the date the obligation is given as security.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1046; Pub. L. 107-217, Sec. 3(h)(9), Aug. 21, 2002, 116 Stat. 1300.)

Historical and Revision Notes

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
9303(a)		6:15(1st sentence).
9303(b)		6:15(3d sentence).
9303(c)		6:15(2d sentence).
9303(d)		6:15(4th, 5th sentences).
9303(e)		6:15(6th, 8th sentences).
9303(f)		6:15(7th, 9th, 11th sentences).

In subsection (a), before clause (1), the words ``If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond'' are substituted for ``Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called `penal bond', with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security . . . United States Liberty bonds or other bonds or notes of the United States'' to eliminate unnecessary words and for consistency. The words ``The obligation shall be'' are added because of the restatement. Clause (3) is substituted for ``together with an agreement authorizing such official to collect or sell such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond'' to eliminate unnecessary words.

In subsection (b)(1), before clause (A), the words ``An official receiving a Government obligation under subsection (a) of this section may deposit it with'' are substituted for ``The bonds or notes deposited hereunder, and such other United States bonds or notes as may be

substituted therefor from time to time as such security, may be deposited with'' for clarity and consistency and to eliminate unnecessary words. Clause (A) is substituted for ``Treasurer of the United States'' because of the source provisions restated in section 321(c) of the revised title. In clause (C), the words ``duly'' and ``for that purpose'' are omitted as unnecessary.

Subsection (b)(2) is substituted for ``which shall issue receipt therefor, describing such bonds or notes so deposited'' to eliminate unnecessary words and for consistency.

In subsection (c), before clause (1), the words ``Using a Government obligation instead of a surety bond for security is the same as using'' are substituted for ``The acceptance of such United States bonds or notes in lieu of surety or sureties required by law shall have the same force and effect as'' to eliminate unnecessary words and for consistency. In clause (1), the word ``personal'' is substituted for ``individual'' for consistency.

Subsection (d) is substituted for 6:15(4th, 5th sentences) to eliminate unnecessary words and for consistency in the revised title and with other titles of the Code.

In subsection (e), before clause (1), the words ``This section does not'' are substituted for ``Nothing herein contained shall'' for clarity and consistency. The words ``or impair'' are omitted as being covered by ``affect''. Clause (1) is substituted for ``the bonds or notes deposited'' for clarity and consistency. In clause (2), the words ``of said penal bond'' are omitted because of the restatement. In clause (3), the words ``civil action'' are substituted for ``judicial proceedings'' for consistency. In clause (4), the word ``official'' is substituted for ``administrative officer'' for consistency.

In subsection (f), the words ``in order'' are omitted as unnecessary. The words ``Government obligations'' are substituted for ``securities'' and for ``bonds and notes of the United States'' for consistency. The words ``the Secretary may prescribe regulations limiting'' are substituted for ``such rules and regulations may limit'' for clarity and consistency. The words ``in appropriate classes of cases'' are omitted as unnecessary. The words ``the obligation is given'' are substituted for ``of deposit of such bonds'' for clarity and consistency. The text of 6:15(7th sentence) is omitted as executed. The text of 6:15(9th sentence) is omitted because of section 321 of the revised title.

Amendments

2002--Subsec. (d). Pub. L. 107-217, Sec. 3(h)(9)(A), in introductory provisions substituted ``sections 3131 and 3133 of title 40'' for ``the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d)'' and ``section 3133(a) of title 40'' for ``section 3 of the Act (40 U.S.C. 270c)''.

Subsec. (d)(1). Pub. L. 107-217, Sec. 3(h)(9)(B), substituted ``sections 3131 and 3133 of title 40'' for ``the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d)'' and ``section 3133(b) of title 40'' for ``section 2 of the Act (40 U.S.C. 270b)''.

Subsec. (e)(2)(A). Pub. L. 107-217, Sec. 3(h)(9)(C), substituted ``sections 3131 and 3133 of title 40'' for ``the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d)''.

Section Referred to in Other Sections

This section is referred to in title 11 section 345; title 26 sections 5177, 5403, 7102, 7485.