ganization Plan of November 25, 2002, as modified, 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.

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 section 3 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 sections 1 and 3 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

Section 2 of act June 26, 1934, ch. 756, 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 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 Customs shall make available to the United States Coast Guard, from funds appropriated under subsection (f)(2) of this section 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) of this section.

(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 Customs shall transmit to the Congress, by no later than February 1 of each fiscal year the following detailed reports:

(A) a report on—

(i) the estimated total value of property forfeited under any law enforced or administered by the United States Customs Service or the United States Coast Guard with respect to which funds were not deposited in the Fund during the previous fiscal year, and

(ii) the estimated total value of all such property transferred to any State or local law enforcement agency;

(B) a report on—

(i) the balance of the Fund at the beginning of the preceding fiscal year;

(ii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies during the previous fiscal year;

(iii) the net amount realized from the operations of the Fund during the previous fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over to the current fiscal year;

(iv) any defendant's equity in property valued at $1,000,000 or more;

(v) the balance of the Fund at the end of the previous fiscal year; and

(C) a report containing, for the previous fiscal year—

(i) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Comptroller General, and

(ii) an analysis of income and expenses showing the revenue received or lost—

(I) by property category (general property, vehicles, vessels, aircraft, cash, and real property) and

(II) by type of disposition (sales, remissions, cancellations, placed into official use, sharing with State and local agencies, and destructions).

(2) The Fund shall be subject to audits conducted by the Comptroller General of the United States, under such conditions as the Comptroller General determines appropriate.

(f) Authorization of appropriations

(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes set forth in subsection (a)(1) of this section.

(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) of this section for such fiscal year.

(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following, shall be available to carry out the purposes set forth in subsection (a)(3) of this section:

(i) $14,855,000 for fiscal year 1991.

(ii) $15,598,000 for fiscal year 1992.

(3) At the end of each fiscal year, any unobligated amount in excess of $15,000,000 remaining in the Fund shall be deposited into the general fund of the Treasury of the United States.

(June 17, 1930, ch. 497, title IV, § 613A, as added Pub. L. 98–573, title II, § 213(a)(11), Oct. 30, 1984, 98 Stat. 2986; amended Pub. L. 99–570, title I,

§ 1152(b)(2), title III, § 3142(a), Oct. 27, 1986, 100 Stat. 3207–12, 3207–93; Pub. L. 100–71, title I, § 101, July 11, 1987, 101 Stat. 438; Pub. L. 100–202, § 101(m) [title I, § 106], Dec. 22, 1987, 101 Stat. 1329–390, 1329–397; Pub. L. 100–418, title I, § 1912, Aug. 23, 1988, 102 Stat. 1320; Pub. L. 100–690, title VII, § 7364, Nov. 18, 1988, 102 Stat. 4475; Pub. L. 101–382, title I, § 121, Aug. 20, 1990, 104 Stat. 640; Pub. L. 101–508, title X, § 10012(a), Nov. 5, 1990, 104 Stat. 1388–390; Pub. L. 104–316, title I, § 110(a), Oct. 19, 1996, 110 Stat. 3832.)

PRIOR PROVISIONS

Prior similar provisions were contained in section 613a of act June 17, 1930, as added by Pub. L. 98–473, title II, § 317, Oct. 12, 1984, 98 Stat. 2054, which was classified to section 1613a of this title and subsequently repealed.

AMENDMENTS

1996—Subsec. (e)(2). Pub. L. 104–316 struck out ''annual financial'' before ''audits conducted'' and inserted before period at end '', under such conditions as the Comptroller General determines appropriate''.

1990—Subsec. (a)(1)(F). Pub. L. 101–382, § 121(1), added subpar. (F).

Subsec. (a)(2). Pub. L. 101–382, § 121(2), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (c). Pub. L. 101–382, § 121(3), inserted ''forfeited currency and'' before ''proceeds''.

Subsec. (e)(1)(B). Pub. L. 101–382, § 121(4)(B)(i), (ii), redesignated cls. (iii) through (vi) as (ii) through (v), respectively, and struck out former cl. (ii), which read as follows: ''sources of receipts (seized cash, conveyances, and others) of the Fund during the previous fiscal year;''.

Subsec. (e)(1)(C). Pub. L. 101–382, § 121(4)(A), (B)(iii), (iv), (C), added subpar. (C).

Subsec. (f). Pub. L. 101–382, § 121(5), which amended subsec. (f) generally to read as follows:

''(1) Subject to paragraph (2), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) of this section for such fiscal year.

''(2) Of the amount authorized to be appropriated under paragraph (1), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3) of this section:

''(A) $14,855,000 for fiscal year 1991.

''(B) $15,598,000 for fiscal year 1992.''

was repealed by Pub. L. 101–508, § 10012(a)(1). See Construction of 1990 Amendment note below.

Subsec. (f)(2). Pub. L. 101–508, § 10012(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''There are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) of this section for such fiscal year.''

1988—Pub. L. 100–690 amended section generally.

Subsec. (a)(iii). Pub. L. 100–418, § 1912(2), substituted ''private persons'' for ''private citizens''.

Subsec. (c). Pub. L. 100–418, § 1912(1), substituted ''described in subsection (a) of this section for which the fund is available to the United States Customs Service,'' for ''beginning on October 30, 1984, and ending on September 30, 1987,''.

1987—Pub. L. 100–71 repealed Pub. L. 99–570, § 1152(b)(2). See 1986 Amendment note below.

Subsec. (a)(5)(v), (vi). Pub. L. 100–202 added cls. (v) and (vi).

1986—Pub. L. 99–570, § 1152(b)(2), which directed the repeal of this section, was itself repealed by Pub. L. 100–71. See Repeal and Revival of Section note below.

Subsec. (a). Pub. L. 99–570, § 3142(a)(1)(A), (F), substituted ''1991'' for ''1987'' in introductory provisions and amended generally concluding provisions which had read as follows: ''In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31 if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.''

Subsec. (a)(1). Pub. L. 99–570, § 3142(a)(1)(B), inserted ''(including investigative costs leading to seizures)'' after ''of the seizure''.

Subsec. (a)(5), (6). Pub. L. 99–570, § 3142(a)(1)(C)–(E), redesignated par. (6) as (5) and struck out former par. (5) which provided that the fund would be available with respect to seizures and forfeitures by the United States Customs Service for equipping for law enforcement functions of forfeited vessels, vehicles and aircraft retained as provided by law for official use by the Customs Service.

Subsec. (f). Pub. L. 99–570, § 3142(a)(2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

''(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than $10,000,000.

''(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 10012(c) of Pub. L. 101–508 provided that: ''The provisions of this section [amending this section] take effect August 21, 1990.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 3142(b) of Pub. L. 99–570 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect October 1, 1986.''

EFFECTIVE DATE

Section effective Oct. 15, 1984, see section 214(e) of Pub. L. 98–573, set out as an Effective Date of 1984 Amendment note under section 1304 of this title.

CONSTRUCTION OF 1990 AMENDMENT

Section 10012(a)(1) of Pub. L. 101–508 provided that: ''Paragraph (5) of section 121 of the Customs and Trade Act of 1990 [Pub. L. 101–382] is repealed and subsection (f) of section 613A of the Tariff Act of 1930 [subsec. (f) of this section] shall be applied as if the amendment made by such paragraph (5) had not been enacted.''

REPEAL AND REVIVAL OF SECTION

Section 1152(b)(2) of Pub. L. 99–570, which had directed the repeal of this section, 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.

TRANSFER OF FUNCTIONS

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 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, as modified, set out as a note under section 542 of Title 6.

§ 1614. Release of seized property

If any person claiming an interest in any vessel, vehicle, aircraft, merchandise, or baggage seized under the provisions of this chapter offers to pay the value of such vessel, vehicle, aircraft, merchandise, or baggage, as determined under section 1606 of this title, and it appears that such person has in fact a substantial interest therein, the appropriate customs officer may, subject to the approval of the Secretary of the Treasury if under the customs laws, or the Commandant of the Coast Guard or the Commissioner of Customs, as the case may be, if under the navigation laws, accept such offer and release the vessel, vehicle, aircraft, merchandise, or baggage seized upon the payment of such value thereof, which shall be distributed in the order provided in section 1613 of this title.

(June 17, 1930, ch. 497, title IV, § 614, 46 Stat. 757; 1946 Reorg. Plan No. 3, §§ 101–104, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097; Pub. L. 91–271, title III, § 301(b), June 2, 1970, 84 Stat. 287; Pub. L. 98–473, title II, § 321, Oct. 12, 1984, 98 Stat. 2056; Pub. L. 98–573, title II, § 213(a)(12), Oct. 30, 1984, 98 Stat. 2987.)

REFERENCES IN TEXT

The customs laws, referred to in text, are classified generally to this title.

The navigation laws, referred to in text, are classified generally to Title 33, Navigation and Navigable Waters.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 614, 42 Stat. 987. That section was superseded by section 614 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision authorizing collectors, subject to the approval of the Secretary of the Treasury, to release seized merchandise on payment of the appraised value when the appraised value did not exceed $1,000, were contained in R.S. § 3081, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1984—Pub. L. 98–573 and Pub. L. 98–473 inserted reference to aircraft in three places.

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

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.

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, as modified, 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.

Substitution in text of reference to Commandant of the Coast Guard or Commissioner of Customs for ''the Secretary of Commerce'' under the authority of Reorg. Plan No. 3 of 1946, see Transfer of Functions note set out under section 1613 of this title.

§ 1615. Burden of proof in forfeiture proceedings

In all suits or actions (other than those arising under section 1592 of this title) brought for the forfeiture of any vessel, vehicle, aircraft, merchandise, or baggage seized under the provisions of any law relating to the collection of duties on imports or tonnage, where the property is claimed by any person, the burden of proof shall lie upon such claimant; and in all suits or actions brought for the recovery of the value of any vessel, vehicle, aircraft, merchandise, or baggage, because of violation of any such law, the burden of proof shall be upon the defendant: *Provided*, That probable cause shall be first shown for the institution of such suit or action, to be judged of by the court, subject to the following rules of proof:

(1) The testimony or deposition of the officer of the customs who has boarded or required to come to a stop or seized a vessel, vehicle, or aircraft, or has arrested a person, shall be prima facie evidence of the place where the act in question occurred.

(2) Marks, labels, brands, or stamps, indicative of foreign origin, upon or accompanying mechandise[1] or containers of merchandise, shall be prima facie evidence of the foreign origin of such merchandise.

(3) The fact that a vessel of any description is found, or discovered to have been, in the vicinity of any hovering vessel and under any circumstances indicating contact or communication therewith, whether by proceeding to or from such vessel, or by coming to in the vicinity of such vessel, or by delivering to or receiving from such vessel any merchandise, person, or communication, or by any other means effecting contact or communication therewith, shall be prima facie evidence that the vessel in question has visited such hovering vessel.

(June 17, 1930, ch. 497, title IV, § 615, 46 Stat. 757; Aug. 5, 1935, ch. 438, title II, § 207, 49 Stat. 525; Pub. L. 95–410, title I, § 110(d), Oct. 3, 1978, 92 Stat. 896; Pub. L. 98–473, title II, § 321, Oct. 12, 1984, 98 Stat. 2056; Pub. L. 98–573, title II, § 213(a)(13), Oct. 30, 1984, 98 Stat. 2987.)

PRIOR PROVISIONS

Provisions somewhat similar to those in this section were contained in act Oct. 3, 1913, ch. 16, § III, T, 38

[1] So in original. Probably should be ''merchandise''.