

SEC. 2 (a)–(c). CORPORATION, PARTNERSHIP, OR ASSOCIATION AS CITIZEN¹ (46 App. U.S.C. 802 (2000)).

(a) **Ownership of Controlling Interest.** Within the meaning of this Act no corporation, partnership, or association shall be deemed a citizen of the United States unless the controlling interest therein is owned by citizens of the United States, and, in the case of a corporation, unless its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States and unless no more of its directors than a minority of the number necessary to constitute a quorum are noncitizens and the corporation itself is organized under the laws of the United States or of a State, Territory, District, or possession thereof, but in the case of a corporation, association, or partnership operating any vessel in the coastwise trade the amount of interest required to be owned by citizens of the United States shall be 75 per centum.

(b) **Determination of Controlling Interest.** The controlling interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (c) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or, (d) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.

(c) **Determination of Seventy-five Per Centum of Interest.** Seventy-five per centum of the interest in a corporation shall not be deemed to be owned by citizens of the United States (a) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (b) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States; or (c) if, through any contract or understanding, it is so arranged that more than 25 per centum of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States;

¹ Note provisions of law at the end of Section 2 of the Shipping Act, 1916, concerning recent changes to the U.S. vessel citizenship requirements for certain purposes. Also note that both 46 U.S.C. 12106(d)(2) and 46 U.S.C. 12106(e)(4), pages 449, 450, *infra*, provide that for the purpose of Section 2 of the Shipping Act, 1916, a vessel meeting the requirements of those subsections shall be deemed to be owned exclusively by citizens of the United States.

or (d) 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 citizen of the United States.

SEC. 2 (d). APPLICABILITY TO RECEIVERS AND TRUSTEES (46 App. U.S.C. 803 (2000)).

The provisions of this Act shall apply to receivers and trustees of all persons to whom the Act applies, and to the successors or assignees of such persons.

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PROVISIONS THAT AFFECT SECTION 2 CITIZENSHIP REQUIREMENTS

COASTWISE ENDORSEMENT. Section 1113(d) of Public Law 104-324, approved October 19, 1996 (110 STAT. 3971), added a subsection (e) to **46 U.S.C. 12106. Coastwise Endorsement**, as follows:

(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

(A) the vessel is eligible for documentation;

(B) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is primarily engaged in leasing or other financing transactions;

(C) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916;

(D) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary; and

(E) the vessel is otherwise eligible for documentation under this section.

(2) The demise charter and any amendments to that charter shall be filed with the certificate required by this subsection, or within 10 days following the filing of an amendment to the charter, and such charter and amendments shall be made available to the public.

(3) Upon termination by a demise charterer required under paragraph (1)(C), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charterer for a period not to exceed 6 months on such terms and conditions as the Secretary may prescribe.

(4) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection is deemed to be owned exclusively by citizens of the United States.

TRUST CHARTERS/INDIRECT VESSEL OWNERS. Section 1136(c) and (d) of Public Law 104-324, approved October 19, 1996 (110 STAT. 3987) provide:

Sec. 1136 (c). Trust Charterers.—Notwithstanding section 12102(d)(4) of title 46, United States Code, as amended by this section, for purposes of subtitle B of title VI of the Merchant Marine Act, 1936 a vessel is deemed to be owned and operated by a citizen of the United States (as that term is used in that subtitle) if—

(1) the person chartering the vessel from a trust under section 12102(d)(2) of that title is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); and

(2)(A) the vessel—

(i) is delivered by a shipbuilder, following completion of construction, on or after May 1, 1995 and before January 31, 1996; or

(ii) is owned by a citizen of the United States under section 2 of the Shipping Act, 1916 on September 1, 1996, or is a replacement for such a vessel; or

(B) payments have been made with respect to the vessel under subtitle B of title VI of the Merchant Marine Act, 1936 for at least 1 year.

Sec. 1136(d). Indirect Vessel Owners.—Notwithstanding any other provision of law, for purposes of subtitle B of title VI of the Merchant Marine Act, 1936 the following vessels are deemed to be owned and operated by a citizen of the United States (as that term is used in that subtitle) if the vessels are owned, directly or indirectly, by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802):

(1) Any vessel constructed under a shipbuilding contract signed on December 21, 1995, and having hull number 3077, 3078, 3079, or 3080.

(2) Any vessel delivered by a shipbuilder, following completion of construction, on or after May 1, 1995, and before January 31, 1996.

(3) Any vessel owned on September 1, 1996, by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916, or a replacement for such a vessel.

(4) Any vessel with respect to which payments have been made under subtitle B of title VI of the Merchant Marine Act, 1936 for at least 1 year.

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