

STATEMENT

OF

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CHIEF COUNSEL

ON

BEHALF OF

THE

MARITIME ADMINISTRATION
DEPARTMENT OF TRANSPORTATION

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE
OF THE
MERCHANT MARINE AND FISHERIES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES

IN OPPOSITION TO H.R. 1307
THE MARITIME SERVICES FINANCIAL RESPONSIBILITY
ACT OF 1983

MAY 20, 1983

Mr. Chairman and Members of the Subcommittee on Merchant Marine. My name is Stuart R. Breidbart, and I am the Chief Counsel of the Maritime Administration, Department of Transportation.

It is a pleasure for me to appear before you this morning, to present the views of the Administration with respect to H.R. 1307, the Maritime Services Financial Responsibility Act of 1983.

The bill would require the owner of each vessel engaging in foreign commerce and using any port or place in the United States, or the navigable waters of the United States, to establish and maintain, under regulations to be prescribed by the Secretary of Transportation, evidence of financial responsibility. The purpose of such financial responsibility would be to meet all claims made in connection with the rendering to that vessel, at ports or places in the United States, of maritime services with respect to loading, unloading, berthing, wharfage, pilotage, repairing, cleaning, supplying of stores or launch hire, husbanding, and related activities. The amount of the financial responsibility required would be equal to \$100 per gross ton of the vessel or \$1 million, whichever is less. Evidence of such responsibility could be established by an insurance policy, surety bond, qualification as self-insurer, or other evidence acceptable to the Secretary of Transportation. Each such vessel owner who fails to comply with these requirements would be subject to a fine of not more than \$10,000.

Where jurisdiction over a vessel cannot be obtained under United States law, H.R. 1307 would authorize that a claim for maritime services be brought directly against the person or entity providing the evidence of financial responsibility, and such person or entity is authorized to invoke all rights and defenses available to the vessel owner.

Additionally, H.R. 1307 would call upon the resources of the Treasury Department and this Department to ensure financial responsibility. In the event a vessel is found not to have documentation acceptable to the Secretary of Transportation indicating compliance with the financial responsibility requirements, the bill would direct the Secretary of the Treasury to deny clearance to such vessel. The bill would also authorize the Secretary of this Department to deny entry to any port or place in the United States to, and detain at the port or place in the United States from which it is about to depart, any vessel subject to the proposed legislation which fails to produce the required documentation indicating compliance with the financial responsibility requirements.

The Administration is opposed to the enactment of H.R. 1307. The bill would increase Government involvement in the commercial practice of the Maritime Industry at a time when we are seeking to minimize such intervention. There are simple commercial solutions

to the concerns of those who provide services to vessels. Nothing compels stevedores and others to extend credit to those who they determine are not creditworthy. Requiring payment in advance, bonds, or letters of credit are standard commercial practices which can be utilized in situations where concern exist about whether a vessel or its owner will pay its bills. Additionally, H.R. 1307 would have the potential of committing scarce Coast Guard and Treasury Department resources to intervention in situations in which no significant public policy interest appears to exist. Finally, there is some concern that any failure to deny entry to or to detain a vessel subject to the proposed legislation could expose the United States to financial liability to a creditor whose claim has not been satisfied.

That concludes my prepared statement, Mr. Chairman. I will be pleased to answer any questions you or the Members of the Subcommittee may have. Thank you.