

sources and liabilities together with acknowledgment and attestation", in second sentence.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 911(i)[(g)] of Pub. L. 101-73 provided that: "The amendments made by this section [amending this section and sections 164, 324, 1782, 1817, 1847, and 1882 of this title] shall apply with respect to reports filed or required to be filed after the date of the enactment of this Act [Aug. 9, 1989]."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-671 effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as a note under section 1817 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

§ 162. Repealed. Pub. L. 86-671, § 6, July 14, 1960, 74 Stat. 552.

Section, act Feb. 26, 1881, ch. 82, 21 Stat. 352, prescribed the manner of verification of reports of condition of national banks. See section 1817 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as an Effective Date of 1960 Amendment note under section 1817 of this title.

§ 163. Repealed. Pub. L. 86-230, § 22(a), Sept. 8, 1959, 73 Stat. 466

Section, R.S. § 5212, related to report of dividends and net earnings. See section 161 of this title.

§ 164. Penalty for failure to make reports

(a) First tier

Any association which—

(1) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error—

(A) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 161 of this title, within the period of time specified by the Comptroller; or

(B) submits or publishes any false or misleading report or information; or

(2) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. The association shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

(b) Second tier

Any association which—

(1) fails to make, obtain, transmit, or publish any report or information required by the Comptroller of the Currency under section 161 of this title, within the period of time specified by the Comptroller; or

(2) submits or publishes any false or misleading report or information,

in a manner not described in subsection (a) of this section shall be subject to a penalty of not

more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(c) Third tier

Notwithstanding subsections (a) and (b) of this section, if any association knowingly or with reckless disregard for the accuracy of any information or report described in subsection (b) of this section submits or publishes any false or misleading report or information, the Comptroller may assess a penalty of not more than \$1,000,000 or 1 percent of total assets of the association, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(d) Assessment; etc.

Any penalty imposed under subsection (a), (b), or (c) of this section shall be assessed and collected by the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

(e) Hearing

Any association against which any penalty is assessed under this subsection¹ shall be afforded an agency hearing if such association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this section.

(R.S. § 5213; Pub. L. 86-230, § 12, Sept. 8, 1959, 73 Stat. 458; Pub. L. 101-73, title IX, § 911(b)(2), Aug. 9, 1989, 103 Stat. 478.)

CODIFICATION

R.S. § 5213 derived from act Mar. 3, 1869, ch. 130, §§ 1, 2, 15 Stat. 326, 327.

AMENDMENTS

1989—Pub. L. 101-73 amended section generally. Prior to amendment, section read as follows: "Every association which fails to make and transmit any report required under section 161 of this title shall be subject to a penalty of \$100 for each day after the periods, respectively, therein mentioned, that it delays to make and transmit its report. Whenever any association delays or refuses to pay the penalty herein imposed, after it has been assessed by the Comptroller of the Currency, the amount thereof may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation. All sums of money collected for penalties under this section shall be paid into the Treasury of the United States."

1959—Pub. L. 86-230 substituted "section 161 of this title" for "either section 161 or 163 of this title".

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-73 applicable with respect to reports filed or required to be filed after Aug. 9, 1989, see section 911(i) of Pub. L. 101-73, set out as a note under section 161 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not

¹ So in original. Probably should be "section".