

100-352, §6(d), June 27, 1988, 102 Stat. 663; Pub. L. 104-317, title VI, §605(a), (b)(1), (c)(1), Oct. 19, 1996, 110 Stat. 3858, 3859.)

REFERENCES IN TEXT

Section 77 of the Bankruptcy Act, referred to in subsec. (b)(1), was classified to section 205 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§1161 et seq.) of chapter 11 of Title 11.

Section 605 of the Federal Courts Improvement Act of 1996, referred to in subsec. (b)(2)(F), is section 605 of Pub. L. 104-317, title VI, Oct. 19, 1996, 110 Stat. 3858, which amended this section and sections 743, 745, 1104, and 1105 of this title and enacted provisions set out as notes under this section.

CODIFICATION

Amendment of subsec. (c)(2) by section 607(s) of Pub. L. 94-210 was executed by substituting "person leased" for "railroads leased" to reflect the probable intent of Congress, notwithstanding such section 607(s) requiring substitution of "person leased" for "railroad leased".

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-317, §605(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (e)(3). Pub. L. 104-317, §605(b)(1), added par. (3) and struck out former par. (3) which read as follows: "A final order or judgment of the special court in any action referred to in this section shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any such petition shall be filed in the Supreme Court not more than 20 days after entry of such order or judgment."

Subsec. (g). Pub. L. 104-317, §605(c)(1)(A), inserted "or Court of Appeals for the District of Columbia Circuit" after "Supreme Court".

Subsec. (h). Pub. L. 104-317, §605(c)(1)(B), struck out subsec. (h) relating to special masters.

1988—Subsec. (e)(3). Pub. L. 100-352 struck out " , except that any order or judgment enjoining the enforcement, or declaring or determining the unconstitutionality or invalidity, of this chapter, in whole or in part, or of any action taken under this chapter, shall be reviewable by direct appeal to the Supreme Court of the United States in the same manner that an injunctive order may be appealed under section 1253 of title 28" before the period at end of first sentence and substituted "such petition shall be filed in the Supreme Court" for "petition or appeal shall be filed" in second sentence.

1977—Subsec. (h). Pub. L. 95-199 added subsec. (h).

1976—Subsec. (b). Pub. L. 94-210, §602(a), substituted provisions relating to issuance of rules by special court for conduct of proceedings under this section and section 745 of this title, for provisions relating to issuance of rules by panel for conduct of its functions under this provision.

Subsec. (c). Pub. L. 94-210, §607(i), (l), (r), (s), inserted "or any subsidiary thereof" after "Corporation" wherever appearing, substituted "certificates of value" for "obligations" wherever appearing, inserted provisions at end relating to the time for the delivery of the final system plan on March 12, 1976, and conditions for extension of such date, and substituted references to person leased for references to railroad leased wherever appearing in pars. (1) and (2). See Codification note above.

Subsec. (d)(1). Pub. L. 94-210, §607(i), inserted "or any subsidiary thereof" after "Corporation".

Subsecs. (e) to (g). Pub. L. 94-210, §602(b), added subsecs. (e) to (g).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 605(e) of Pub. L. 104-317 provided that: "The amendments made by subsections (b) and (c) of this

section [amending this section and sections 743, 745, 1104, and 1105 of this title] shall take effect 90 days after the date of enactment of this Act [Oct. 19, 1996] and, except as provided in subsection (d) [enacting provisions set out as a note below], shall apply with respect to proceedings that arise or continue after such effective date."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

CASES PENDING IN SPECIAL COURT

Section 605(d) of Pub. L. 104-317 provided that: "Effective 90 days after the date of enactment of this Act [Oct. 19, 1996], any case pending in the special court established under section 209(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(b)) shall be assigned to the United States District Court for the District of Columbia as though the case had originally been filed in that court. The amendments made by subsection (b) of this section [amending this section and sections 743 and 1105 of this title] shall not apply to any final order or judgment entered by the special court for which—

"(1) a petition for writ of certiorari has been filed before the date on which the special court is abolished; or

"(2) the time for filing a petition for writ of certiorari has not expired before that date."

APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Application of National Environmental Policy Act to actions of Commission not affected by title VI of Pub. L. 94-210, see section 619 of Pub. L. 94-210, set out as a note under section 791 of this title.

RULES OF THE SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973

Rules of the Special Court, Regional Rail Reorganization Act of 1973, formerly set out under this section, were omitted because the Special Court was abolished effective 90 days after Oct. 19, 1996. See subsec. (b)(2) of this section.

§ 720. Obligations of Association

(a) General

To carry out the purposes of this chapter, the Association is authorized to issue bonds, debentures, trust certificates, securities, or other obligations (herein cited as "obligations") in accordance with this section. Such obligations shall have such maturities and bear such rate or rates of interest as are determined by the Association with the approval of the Secretary of the Treasury. Such obligations shall be redeemable at the option of the Association prior to maturity in the manner stipulated in each such obligation, and may be purchased by the Association in the open market at a price which is reasonable.

(b) Maximum obligational authority

The aggregate principal amount (exclusive of interest or additions to principal on account of

accrual of interest) of obligations issued by the Association under this section which may be outstanding at any one time shall not exceed \$395,000,000. No obligations or proceeds thereof shall be issued or made available after February 5, 1976, except—

(1) to meet existing or potential commitments for loans under section 721 of this title made or applied for prior to January 1, 1976; and

(2) for the purpose of providing loans pursuant to subsections (g) and (h) of section 721 of this title.

(c) Guarantees

The Secretary shall guarantee the payment of principal and interest on all obligations issued by the Association in accordance with this chapter and which the Association requests be guaranteed. All guarantees entered into by the Secretary under this section shall constitute general obligations of the United States for the payment of which its full faith and credit are pledged.

(d) Validity

No obligation issued by the Association under this section shall be terminated, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Association. Such an obligation shall be conclusive evidence that it is in compliance with this section, has been approved, and is legal as to principal, interest, and other terms. An obligation of the Association shall be valid and incontestable in the hands of a holder, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

(e) The Secretary of the Treasury

If at any time the moneys available to the Secretary are insufficient to enable him to discharge his responsibilities under subsection (c) of this section or under subsection (a) of section 746 of this title, he shall issue notes or other obligations to the Secretary of the Treasury in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such obligations shall bear interest at a rate to be determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such obligations. The Secretary of the Treasury is authorized and directed to purchase any such obligations and for such purposes is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31. The purposes for which securities may be issued under such chapter are extended to include any purchase of notes or other obligations issued under this subsection. At any time, the Secretary of the Treasury may sell any such obligations, and all sales, purchases, and redemptions of such obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

(f) Authorization for appropriations

There are hereby authorized to be appropriated to the Secretary such amounts as are necessary to discharge the obligations of the United States arising under this section.

(g) Lawful investments

All obligations issued by the Association shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof. All such obligations issued pursuant to this section shall be exempt securities within the meaning of laws administered by the Securities and Exchange Commission.

(Pub. L. 93-236, title II, § 210, Jan. 2, 1974, 87 Stat. 1000; Pub. L. 94-210, title VI, §§ 604, 607(k), Feb. 5, 1976, 90 Stat. 88, 97; Pub. L. 94-555, title II, § 203(e), Oct. 19, 1976, 90 Stat. 2620; Pub. L. 96-448, title VII, § 703(f)(3), Oct. 14, 1980, 94 Stat. 1965.)

CODIFICATION

In subsec. (e), “chapter 31 of title 31” and “such chapter” substituted for “the Second Liberty Bond Act, as amended” and “such Act”, respectively, on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1980—Subsec. (e). Pub. L. 96-448 inserted “or under subsection (a) of section 746 of this title” after “subsection (c) of this section”.

1976—Subsec. (b). Pub. L. 94-555 inserted “(exclusive of interest or additions to principal on account of accrual of interest)” after “aggregate principal amount”, and raised maximum amount allowed for outstanding obligations issued by Association to \$395,000,000.

Pub. L. 94-210, § 604, substituted provisions authorizing \$275,000,000 as maximum of aggregate amount of obligations outstanding at any one time and provisions relating to availability or issuance after Feb. 5, 1976, for provisions authorizing \$1,500,000,000 as maximum of aggregate amount of obligations outstanding at any one time and provisions relating to limitations on amounts issued to Corporation and available for rehabilitation and modernization of rail properties.

Subsec. (c). Pub. L. 94-210, § 607(k), inserted provisions relating to guarantees as general obligations of the United States and pledge of full faith and credit for payment.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Application of National Environmental Policy Act to actions of Commission not affected by title VI of Pub. L. 94-210, see section 619 of Pub. L. 94-210, set out as a note under section 791 of this title.

§ 721. Loans**(a) General**

The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it shall prescribe, to make loans to the Corporation, the National Railroad Passenger Corporation, and other railroads (including a railroad in reorganization which has been found to be reorganizable under section 77 of the Bankruptcy Act pursuant to section 717(b) of this title) in the region, for purposes of achieving the goals of this chapter; to a State or local or regional transportation authority pursuant to section 763¹ of this title; and to provide assistance in the form of loans to any railroad which (A) connects with a railroad in reorganization, and (B) is in need of financial assistance to avoid reorganization proceedings under section 77 of the Bankruptcy Act. No such loan shall be made by the Association to a railroad unless such loans shall, where applicable, be treated as an expense of administration. The rights referred to in the last sentence of section 77(j) of the Bankruptcy Act shall in no way be affected by this chapter.

(b) Applications

Each application for such a loan shall be made in writing to the Association in such form and with such content and other submissions as the Association shall prescribe to protect reasonably the interests of the United States. The Association shall publish a notice of the receipt of each such application in the Federal Register and shall afford interested persons an opportunity to comment thereon.

(c) Terms and conditions

Each loan shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Association deems appropriate. Such loan shall bear interest at a rate not less than the greater of a rate determined by the Secretary of the Treasury taking into consideration (1) the rate prevailing in the private market for similar loans as determined by the Secretary of the Treasury, or (2) the current average yield on outstanding marketable obligations of the Association with remaining periods of maturity comparable to the average maturities of such loans, plus such additional charge, if any, toward covering costs of the Association as the Association may determine to be consistent with the purposes of this chapter.

(d) Modifications

The Association is authorized to approve any modification of any provision of a loan under this section, including the rate of interest, time of payment of interest or principal, security, or any other term or condition, upon agreement of the recipient of the loan and upon a finding by the Association that such modification is equitable and necessary or appropriate to achieve the policy declared in subsection (f) of this section. Notwithstanding any other provision of this section, in the case of a loan made under subsection (a) of this section to a railroad in the region, the Association is not required to make

the findings with respect to subsections (e)(3) and (f) of this section and may, upon the request of such railroad—

(1) continue to make advances to such railroad pursuant to such loan, up to the total principal provided, as of November 8, 1978, under the agreement between such railroad and the Association under this section, upon finding only that (A) a good faith effort has been commenced by such railroad toward the establishment of an employee stock ownership plan, and (B) such continued advances will permit the continuation of rail service determined by the Association, in the Final System Plan or under the goals of this chapter, to be desirable; and

(2) increase the principal amount of such loan to such railroad, in an amount not to exceed \$7,500,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association. Any such approval shall be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire qualifying employer securities with a fair market value of \$250,000.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1981.

(e) Prerequisites

The Association shall make a finding in writing, before making a loan to any applicant under this section, that—

(1) the loan is necessary to achieve the goals of this chapter or to prevent insolvency;

(2) it is satisfied that the business affairs of the applicant will be conducted in a reasonable and prudent manner; and

(3) the applicant has offered such security as the Association deems necessary to protect reasonably the interests of the United States.

(f) Policy

It is the intent of Congress that loans made under this section shall be made on terms and conditions which furnish reasonable assurance that the Corporation or the railroads to which such loans are granted will be able to repay them within the time fixed and that the goals of this chapter are reasonably likely to be achieved.

(g) Pre-conveyance loans to Corporation

During the period between the effective date of the final system plan and the date of the conveyance of rail properties pursuant to section 743(b) of this title, the Association may make such loans in such amounts to the Corporation as the Association deems essential to provide for the purchase by the Corporation of material, supplies, equipment, and services necessary to permit the orderly and efficient implementation of the final system plan. Notwithstanding any inability of the Association during such period to make the finding required by subsection (e)(3) of this section because of any existing contingencies, the Association may make any such loans to the Corporation, subject to—

¹ See References in Text note below.