AMENDMENTS

1995—Subsec. (b). Pub. L. 104–88, § 327(2), substituted ''rail carrier subject to part A of subtitle IV of title 49'' for ''common carrier by railroad under section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3))''.

1986—Subsec. (k). Pub. L. 99–509 added subsec. (k).

1981—Subsec. (d)(2). Pub. L. 97–35, § 1141(a), struck out provisions respecting resignations.

Subsec. (e)(1). Pub. L. 97–35, § 1141(b), substituted ''The'' for ''In order to carry out the final system plan, the''.

Subsec. (j). Pub. L. 97–35, § 1141(c), substituted provisions relating to signal systems for provisions relating to corporate simplification.

1976—Subsec. (a). Pub. L. 94–210, § 612(j)(1), inserted ''or such other corporate name as may be duly adopted by the Corporation'' after ''Corporation''.

Subsec. (b). Pub. L. 94–210, § 612(j)(3), inserted ''or of its principal railroad operating subsidiary'' after ''of the Corporation''.

Subsec. (c). Pub. L. 94–210, § 611(a), designated existing provisions as par. (1), struck out provision relating to service of the incorporators as the Board of Directors, and added par. (2).

Subsec. (d). Pub. L. 94–210, § 611(b), designated existing provisions as par. (1), inserted provision relating to applicability of State law, decreased membership from 15 to 13, and revised criteria for selection to membership, and added par. (2).

Subsec. (e). Pub. L. 94–210, § 608, designated existing provisions as par. (1), substituted provisions authorizing issuance of debentures, series A preferred stock, series B preferred stock, common stock, contingent interest notes, and other securities, for provisions relating to issuance of stock and other securities, and added par. (2).

Subsec. (e)(2). Pub. L. 94–248 inserted provisions relating to initial authorized number of shares of series B preferred stock and provisions setting such number at 35,000,000.

Subsec. (f). Pub. L. 94–210, § 611(c), added subsec. (f). Former subsec. (f), which related to a Federal Government audit of the Corporation, was struck out.

Subsec. (g). Pub. L. 94–210, § 611(c), added subsec. (g). Former subsec. (g) redesignated (h) ''Annual report''.

Subsec. (h). Pub. L. 94–216, § 1, redesignated subsec. (h) ''Liability of directors'' as (i).

Pub. L. 94–210, §§ 611(c), 612(m), redesignated former subsec. (g) as (h) ''Annual report'' and added subsec. (h) ''Liability of directors''.

Subsec. (i). Pub. L. 94–216, §§ 1, 3, redesignated former subsec. (h) ''Liability of directors'' as (i) and substituted ''a director of the Association'' for ''a director of the Corporation''. Former subsec. (i) redesignated (j).

Pub. L. 94–210, § 612(m), added subsec. (i) ''Corporate simplification''.

Subsec. (j). Pub. L. 94–216, § 1, redesignated former subsec. (i) ''Corporate simplification'' as (j).

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1169 of Pub. L. 97–35, set out as an Effective Date note under section 1101 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (h) of this section relating to the requirement that the Corporation transmit an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 7th item on page 199 of House Document No. 103–7.

ABOLITION OF SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) 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.

§ 742. Powers and duties of Corporation

The Corporation shall have all of the powers and is subject to all of the duties vested in it under this chapter, in addition to the powers conferred upon it under the laws of the State or States in which it is incorporated and the powers of a railroad in any State in which it operates. The Corporation is authorized and directed to—

(a) acquire rail properties designated in the final system plan to be transferred or conveyed to it;

(b) operate rail service over such rail properties except as provided under sections 744(e) and 791(d)(3) of this title;

(c) rehabilitate, improve, and modernize such rail properties; and

(d) maintain adequate and efficient rail services.

So long as 50 per centum or more, as determined by the Secretary of the Treasury, of the outstanding indebtedness of the Corporation consists of obligations of the Association or other debts owing to or guaranteed by the United States, the Corporation shall not engage in activities which are not related to transportation.

(Pub. L. 93–236, title III, § 302, Jan. 2, 1974, 87 Stat. 1005.)

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

See section 1341 of this title.

§ 743. Valuation and conveyance of rail properties

(a) Deposit with court

Within 10 days after delivery of a certified copy of a final system plan pursuant to section 719(c) of this title—

(1) the Corporation, in exchange for the rail properties of the railroads in reorganization in the region and of railroads leased, operated, or controlled by railroads in reorganization in the region to be transferred to the Corporation or any subsidiary thereof, shall deposit with the special court all of the stock and other securities of the Corporation and certificates of value issued by the Association designated in the final system plan to be exchanged for such rail properties;

(2) each profitable railroad operating in the region and each state or responsible person (including a government entity) purchasing

rail properties from a railroad in reorganization in the region, or from a railroad leased, operated, or controlled by a railroad in reorganization in the region, as provided in the final system plan shall deposit with the special court the compensation to be paid for such rail properties.

(b) Conveyance of rail properties

(1) The special court shall, within 10 days after deposit under subsection (a) of this section of the securities of the Corporation, certificates of value issued by the Association, and compensation from the profitable railroads operating in the region, States, and responsible persons, order the trustee or trustees of each railroad in reorganization in the region to convey forthwith to the Corporation or any subsidiary thereof, the respective profitable railroads operating in the region, States, and responsible persons all right, title, and interest in the rail properties of such railroad in reorganization and shall itself order the conveyance of all right, title, and interest in the rail properties of any person leased, operated, or controlled by such railroad in reorganization that are to be conveyed to them under the final system plan as certified to such court under section 719(d) of this title. In any case where the special court orders the trustee or trustees of a railroad in reorganization in the region to execute and deliver deeds or other instruments conveying rail properties to the Corporation or a subsidiary thereof or to a profitable railroad operating in the region or a State or responsible person, those deeds or other instruments may be executed, acknowledged, and delivered on behalf of the trustee or trustees by any person or persons who have been duly authorized to perform such acts on behalf of the trustee or trustees by the district court of the United States or any other court having jurisdiction over the respective railroad in reorganization in the region. Notwithstanding any provision of State or local law, in any case where deeds or other instruments have been executed, acknowledged, or delivered by a representative of the trustee or trustees of a railroad in reorganization in the region in accordance with the previous sentence, such execution, acknowledgment, and delivery, and the deeds or other instruments to which they pertain, shall have the same legal effect as they would have had if the trustee or trustees had themselves executed, acknowledged and delivered such deeds or other instruments.

(2) All rail properties conveyed to the Corporation or any subsidiary thereof the respective profitable railroads operating in the region, States, and responsible persons under this section shall be conveyed free and clear of any liens or encumbrances, but subject to such leases and agreements as shall have previously burdened such properties or bound the owner or operator thereof in pursuance of an arrangement with any State, or local or regional transportation authority under which financial support from such State, or local or regional transportation authority was being provided on January 2, 1974, for the continuance of rail passenger service or any lien or encumbrance of no greater than 5 years' duration which is necessary for the contractual performance by any person of duties related to public health or sanitation. Such conveyances shall not be restrained or enjoined by any court.

(3)(A)(i) Notwithstanding any other provision of this chapter, if an interest in railroad rolling stock is included in the rail properties conveyed pursuant to subsection (b)(1) of this section, and if such conveyance is in accordance with the requirements of clause (ii) of this subparagraph, the conveyance of such properties shall be deemed an assignment. Any such assignment shall relieve the assignor of liability for any breach which occurs after the date of such conveyance, except that such assignor shall remain liable for any breach, event of default, or violation of covenant which occurred (and any charges or obligations which accrued) prior to the date of such conveyance, regardless of whether the assignee thereof assumes such liabilities, charges or obligations. If any such liabilities, charges, or obligations (accrued prior to the date of such conveyance) are paid by or on behalf of any person or entity other than such assignor, such person or entity shall have a claim to direct reimbursement, as a current expense of administration, from such assignor, together with interest on the amount so paid.

(ii) A conveyance referred to in clause (i) of this subparagraph may be effected only if—

(I) the Corporation or a subsidiary thereof, the profitable railroad operating in the region, or the State or responsible person to whom such conveyance is made assumes all of the obligations under any applicable conditional sale agreement, equipment trust agreement, or lease with respect to such rolling stock (including any obligations which accrued prior to the date on which such properties are conveyed), and

(II) such conveyance is made subject to such obligations.

As used in this subparagraph, the term ''railroad rolling stock'' means assets which could be carried in Interstate Commerce Commission account numbers 52, 53, 54, and 57.

(B) Subject to the provisions of this paragraph, the provisions of this chapter shall not affect the title and interests of any lessor, equipment trust trustee, or conditional sale vendor under any conditional sale agreement, equipment trust agreement, or lease under section 77(j) of the Bankruptcy Act. A profitable railroad operating in the region, the Corporation or a subsidiary thereof, or a State or responsible person, to whom such a conveyance is made as assignee or as lessee, shall assume all liability under such conditional sale agreement, equipment trust agreement, or lease. Such an assignment or conveyance to, and such an assumption of liability by, such a profitable railroad, Corporation, subsidiary, State, or responsible person shall not be deemed a breach, an event of default, or a violation of any covenant of any such conditional sale agreement, equipment trust agreement, or lease so assigned or conveyed, notwithstanding any provisions of any such agreement or lease.

(4) Notwithstanding anything to the contrary contained in this chapter, if a railroad in reorganization has leased rail properties from a lessor

that is neither a railroad nor controlled by or affiliated with a railroad, and such lease has been approved by the lessee railroad's reorganization court prior to January 2, 1974, conveyance of such lease may only be effected if the Corporation, profitable railroad, State, or responsible person to whom the conveyance is made assumes all future liability under such lease and all of the terms and conditions specified in the lease, including the obligation to pay the specified rent to the non-railroad lessor.

(5) Notwithstanding any covenant, undertaking, condition, or provision of any sort in any lease, agreement, or contract, the conveyance, transfer, assignment, or other disposition of such lease, agreement, or contract or of any interest therein to, or the assumption by, the Corporation or any subsidiary thereof, or a profitable railroad of obligations thereunder, shall not be deemed a breach, an event of default, or a violation of any covenant of such lease, agreement, or contract.

(6)(A) Notwithstanding anything to the contrary contained in this chapter or any other other[1] provision of law, the special court shall include in its order such further directions as may be necessary to assure (i) that the operation and administration of the employee pension benefit plans described in section 775(a)[2] of this title shall be continued, without termination or interruption, by the Corporation until such time as the Corporation elects to amend or terminate any such plan, in whole or in part; and (ii) that appropriate transfers and assignments with respect to all rights and obligations relating to such plans shall be made to the Corporation for such purposes, without prejudice to payment of consideration for whatever rights any railroad in reorganization may have in any residual assets under any such employee pension benefit plan. No court shall enter any judgment against the Corporation with respect to any such rights, except that the special court may enter such a judgment in an order issued by it pursuant to subsection (c) of this section, after taking into consideration the rights and obligations transferred pursuant to this paragraph. All liabilities as an employer shall be imposed solely upon the railroad in reorganization in the event such plan is terminated, in whole or in part, by the Corporation within 1 year after the date of such transfer or assignment (except liabilities as an employer under the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1001 et seq.] for benefits accruing during such period), except that in any case in which the Corporation, on or after the date of transfer or assignment as provided by this paragraph, terminates in whole or in part any such plan, the benefits under which are not guaranteed under title IV of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1301 et seq.], the Corporation shall guarantee the payment when due of the accrued pension benefits provided for thereunder at the time of termination. The Corporation shall be entitled to a loan pursuant to section 721(h) of this title in an amount required for the adequate funding of accrued pension benefits under all plans transferred or assigned to the Corporation in accordance with this paragraph (whether or not terminated by the Corporation). For purposes of such section 721(h) and notwithstanding any other provision of Federal or State law, amounts required for such adequate funding shall be deemed to be expenses of administration of the respective estates of the railroads in reorganization, due and payable as of the date of transfer or assignment of the plans to the Corporation.

(B) The Corporation shall, through the purchase of insurance or otherwise, maintain in effect any medical insurance coverage or so much of any life insurance coverage that does not exceed in death benefits an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower, which coverage was maintained by a railroad in reorganization in the region immediately prior to April 1, 1976, and which provides insurance benefits to employees who retired, prior to April 1, 1976, from service with such a railroad. With respect to any such employee whose medical or life insurance coverage lapsed after April 1, 1976, due to nonpayment of premiums, the Corporation shall—

(i) through the purchase of insurance or otherwise, provide medical insurance benefits or life insurance benefits at the same level as were provided by the employer railroad in reorganization and in effect with respect to such employees immediately prior to April 1, 1976, except that the life insurance benefits so provided shall not exceed in death benefits an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower; and

(ii) assume and pay any claim for such employee (or his personal representative) for any such insurance benefits, if—

(I) such claim arose during the period beginning April 1, 1976, and ending on the date insurance coverage is provided pursuant to clause (i) of this subparagraph;

(II) such benefits were not paid by an insurer solely because of the lapse of the insurance coverage during such period,

except that such death benefits shall not be paid for any such employee in excess of an amount equal to twice the employee's annual salary at the time of retirement or $60,000, whichever is lower.

The Corporation shall be entitled to a loan pursuant to section 721(h) of this title in an amount required for the payment of insurance premiums and benefits described in this subparagraph. For purposes of section 721(h)(4)(A)(iii) of this title, amounts required for the payment of such premiums and benefits shall be deemed to be valid administrative claims against the respective estates of the railroads in reorganization, due and payable as of April 1, 1976, or, in the case of a railroad in reorganization which is not subject to a bankruptcy proceeding, such amounts shall be deemed to be obligations of such railroad, due and payable as of such date, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4) and (5) of such section 721(h) of this title. As used in this subparagraph,

[1] So in original.

[2] See References in Text note below.

the term ''railroad in reorganization'' includes any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance.

(c) Findings and distribution

(1) After the rail properties have been conveyed to the Corporation or any subsidiary thereof, profitable railroads operating in the region, States, and responsible persons under subsection (b) of this section, the special court, giving due consideration to the findings contained in the final system plan, shall decide—

(A) whether the transfers or conveyances—

(i) of rail properties of each railroad in reorganization, or of each railroad leased, operated, or controlled by a railroad in reorganization, to the Corporation or any subsidiary thereof in exchange for the certificates of value and the other benefits accruing to such railroad as a result of such exchange (taking into consideration compensable unconstitutional erosion, if any, which the special court finds to have occurred in the estate of each such railroad, during the bankruptcy proceeding with respect to such railroad) as provided in the final system plan and this chapter, and

(ii) of rail properties of each railroad in reorganization, or of each railroad leased, operated, or controlled by a railroad in reorganization, to a profitable railroad operating in the region in exchange for compensation and other benefits accruing to such transferor as a result of such exchange (taking into consideration compensable unconstitutional erosion, if any, which the special court finds to have occurred in the estate of each such railroad, during the bankruptcy proceeding with respect to such railroad) State, or responsible person in accordance with the final system plan,

are in the public interest and are fair and equitable to the estate of each railroad in reorganization in accordance with the standard of fairness and equity applicable to the approval of a plan of reorganization or a step in such a plan under section 77 of the Bankruptcy Act, or fair and equitable to a railroad that is not itself in reorganization but which is leased, operated, or controlled by a railroad in reorganization;

(B) whether the transfers or conveyances are more fair and equitable than is required as a constitutional minimum; and

(C) what portion of the proceeds received by a railroad in reorganization from an entity other than the Corporation or any subsidiary thereof for the sale, lease, or transfer of property subject to an agreement under section 723 or section 725(a)(1) or (2) of this title reflects value attributable to the maintenance or improvement provided pursuant to the agreement.

(2) If the special court finds that the terms of one or more exchanges for certificates of value and other benefits are not fair and equitable to an estate of a railroad in reorganization, or to a railroad leased, operated, or controlled by a railroad in reorganization (taking into consideration compensable unconstitutional erosion, if any, which the special court finds to have occurred in the estate of each such railroad, during the bankruptcy proceeding with respect to such railroad), which has transferred rail properties pursuant to the final system plan, it may—

(A) enter a judgment reallocating the certificates of value in a fair and equitable manner if they have not been fairly allocated among the railroads transferring rail properties to the Corporation or any subsidiary thereof, except that one certificate of value shall be allocated to each such railroad; and

(B) if the lack of fairness and equity cannot be completely cured by a reallocation of the certificates of value, order the Corporation to provide for the transfer to the railroad of certificates of value issued by the Association as designated in the final system plan in such nature and amount as would make the exchange or exchanges fair and equitable; and

(C) enter a judgment against the Corporation if the judgment would not endanger the viability or solvency of the Corporation.

(3) If the special court finds that the terms of one or more conveyances of rail properties to a profitable railroad operating in the region, State, or responsible person in accordance with the final system plan are not fair and equitable, it shall enter a judgment against such profitable railroad, State, or responsible person. If the special court finds that the terms of one or more conveyances or exchanges for certificates of value or other benefits are fairer and more equitable than is required as a constitutional minimum, then it shall order the return of any excess certificates of value, or compensation to the Corporation or a profitable railroad, State, or responsible person so as not to exceed the constitutional minimum standard of fairness and equity. The special court shall also find the amount of the payments, if any, which each profitable railroad has made on behalf of a transferor railroad in reorganization in accordance with section 721(h) of this title, for which payment the profitable railroad has not been reimbursed, as provided in section 721(h) of this title. Notwithstanding any other provision of this paragraph or of paragraph (4), the special court shall order the return to any such profitable railroad from compensation deposited by such profitable railroad pursuant to subsection (a)(2) of this section, of any such amount so found together with interest at the rate provided in section 721(h) of this title. In making any finding under this paragraph, the special court shall take into consideration compensable unconstitutional erosion, if any, which it finds to have occurred in the estate of a railroad in reorganization in the region, or of a railroad leased, operated, or controlled by such a railroad, during the bankruptcy proceeding with respect to such railroad.

(4) Upon making the findings referred to in this subsection, the special court shall order distribution of the certificates of value and com-

pensation deposited with it under subsection (a) of this section to the trustee or trustees of each railroad in reorganization in the region and to persons leased, operated, or controlled by such railroads who so transferred or conveyed rail properties who conveyed right, title, and interest in rail properties to the Corporation and the respective profitable railroads, States, and responsible persons under such subsection.

(5) Whenever the special court, pursuant to subsection (b)(1) of this section, orders the transfer or conveyance of rail properties—

(A) designated under section 716(c)(1)(C) or (D) of this title, to the Corporation or any subsidiary thereof, the United States shall indemnify the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against the Corporation, with respect to such properties, under paragraph (2) of this subsection; and

(B) to the National Railroad Passenger Corporation, a profitable railroad operating in the region, a State, or any other responsible person (including a governmental entity), the United States shall indemnify such Corporation, railroad, State, or person against any costs or liabilities imposed thereon as the result of any judgment entered against such Corporation, railroad, State, or person under paragraph (3) of this subsection;

plus interest on the amount of such judgment at such rate as is constitutionally required. The United States may, in its discretion, represent the Corporation or the National Railroad Passenger Corporation, such profitable railroad, State or responsible person, in any proceedings before the special court that could result in such a judgment against the Corporation under paragraph (2) of this subsection or against the National Railroad Passenger Corporation, such profitable railroad, State or responsible person, under paragraph (3) of this subsection. The Corporation, the National Railroad Passenger Corporation, any profitable railroad, State, or responsible person, which is represented by the United States of America shall cooperate diligently in whatever manner the United States shall reasonably request of it in connection with such proceedings. Neither the Corporation, or its subsidiaries, nor the National Railroad Passenger Corporation, any profitable railroad, State or responsible person, shall be obligated to reimburse the United States for any moneys paid by the United States pursuant to this section.

(6) Whenever the Corporation exercises an option to acquire, or acquires, interests in rail marine freight floating equipment pursuant to the recommendations of the final system plan, and the Corporation thereafter makes such floating equipment available to a profitable railroad operating in the region, a State, or a responsible person including[3] a government entity), the United States shall indemnify—

(A) the Corporation against any costs or liabilities imposed on the Corporation as the result of any judgment entered against it, with respect to such equipment, under paragraph (2) of this subsection; and

(B) such profitable railroad, State, or responsible person against any costs or liabilities imposed thereon as the result of any judgment entered against such profitable railroads, State, or responsible person under paragraph (3) of this subsection,

plus interest on the amount of such judgment at such rate as is constitutionally required.

(d) Appeal

An order or judgment entered by the United States District Court for the District of Columbia pursuant to subsection (c) of this section or section 746 of this title shall be reviewable in accordance with sections 1291, 1292, and 1294 of title 28.

(e) Transfer and other taxes and recording fees

All transfers or conveyances of rail properties (whether real, personal, or mixed) which are made under this chapter (including transfers and conveyances which are made in accordance with a supplemental transaction pursuant to section 745 of this title or which are made at any time to carry out the purposes of section 791(d) of this title) shall be exempt from any taxes, imposts, or levies now or hereafter imposed, by the United States or by any State or any political subdivision of a State, on or in connection with such transfers or conveyances or on the recording of deeds, bills of sale, liens, encumbrances, or other instruments evidencing, effectuating, or incident to any such transfers or conveyances, whether imposed on the transferor or on the transferee. Such transferors and transferees shall be entitled to record any such deeds, bills of sale, liens, encumbrances, or other instruments and, consistent with the designations and applicable principles in the final system plan, to record the release or removal of any pre-existing liens or encumbrances of record with respect to properties so transferred or conveyed, upon payment of any appropriate and generally applicable charges to compensate for the cost of the service performed.

(Pub. L. 93–236, title III, §303, Jan. 2, 1974, 87 Stat. 1005; Pub. L. 94–5, §8, Feb. 28, 1975, 89 Stat. 9; Pub. L. 94–210, title VI §§601(d), 612(a), (c)–(i), (k), (*l*), (n)–(q), Feb. 5, 1976, 90 Stat. 84, 107–111; Pub. L. 94–436, §§3, 5, Sept. 30, 1976, 90 Stat. 1398, 1399; Pub. L. 94–555, title II, §§202(b), 204, 220(b), Oct. 19, 1976, 90 Stat. 2616, 2620, 2629; Pub. L. 95–199, §4, Nov. 23, 1977, 91 Stat. 1424; Pub. L. 95–597, §1, Nov. 4, 1978, 92 Stat. 2547; Pub. L. 96–73, title II, §204(a), Sept. 29, 1979, 93 Stat. 556; Pub. L. 97–35, title XI, §1167(a), Aug. 13, 1981, 95 Stat. 686; Pub. L. 100–352, §6(e), June 27, 1988, 102 Stat. 664; Pub. L. 103–272, §7(b), July 5, 1994, 108 Stat. 1379; Pub. L. 104–317, title VI, §605(b)(2), Oct. 19, 1996, 110 Stat. 3858.)

REFERENCES IN TEXT

Section 77 of the Bankruptcy Act, referred to in subsecs. (b)(3)(B) and (c)(1)(A)(ii), 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 775 of this title, referred to in subsec. (b)(6)(A), was repealed by Pub. L. 97–35, title XI, §1144(a)(1), Aug. 13, 1981, 95 Stat. 669.

[3] So in original. Probably should be ''(including''.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (b)(6)(A), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended. Title IV of the Employee Retirement Income Security Act of 1974 is classified principally to subchapter III (§ 1301 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

CODIFICATION

The amendments made by section 612(i)(4) of Pub. L. 94–210 could be read as substituting ''certificates of value'' for ''obligations'' in subsecs. (b)(3)(A), (b)(5), and (b)(6), as added by section 612(a) and (*l*) of Pub. L. 94–210. However, this substitution is not appropriate in the context of the new subsecs. (b)(3)(A), (b)(5), and (b)(6).

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–317 substituted ''Appeal'' for ''Review'' in heading and amended text generally. Prior to amendment, text read as follows: ''A finding or determination entered by the special court pursuant to subsection (c) of this section or section 746 of this title 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 finding or determination.''

1994—Subsec. (e). Pub. L. 103–272 struck out ''title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of'' before ''section 791(d)''.

1988—Subsec. (d). Pub. L. 100–352 substituted ''Review'' for ''Appeal'' in heading and amended text generally. Prior to amendment, text read as follows: ''A finding or determination entered by the special court pursuant to subsection (c) of this section or section 746 of this title may be appealed directly to the Supreme Court of the United States in the same manner that an injunction order may be appealed under section 1253 of title 28: *Provided*, That such appeal is exclusive and shall be filed in the Supreme Court not more than 20 days after such finding or determination is entered by the special court. The Supreme Court shall dismiss any such appeal within 7 days after the entry of such an appeal if it determines that such an appeal would not be in the interest of an expeditious conclusion of the proceedings and shall grant the highest priority to the determination of any such appeals which it determines not to dismiss.''

1981—Subsec. (c). Pub. L. 97–35 struck out all references to securities wherever appearing in text, and reference to share of series B preferred stock.

1979—Subsec. (b)(6)(B). Pub. L. 96–73 inserted provisions which limited coverage to amount that does not exceed in death benefits amount equal to twice the employee's annual salary at time of retirement or $60,000, whichever is lower, provided for maintenance of regional coverage, and in cases of lapsed coverage due to nonpayment of premiums prescribed the same limitation for claims arising during the lapsed period or thereafter.

1978—Subsec. (b)(6). Pub. L. 95–597 redesignated existing provisions as subpar. (A), redesignated clauses (A) and (B) as (i) and (ii), respectively, and added subpar. (B).

1977—Subsec. (d). Pub. L. 95–199 substituted ''entered by the special court pursuant to subsection (c) of this section or section 746 of this title'' for ''entered pursuant to subsection (c) of this section''.

1976—Subsec. (a)(1). Pub. L. 94–210, § 612(c)(1), (i), inserted ''or any subsidiary thereof'' before '', shall deposit'', and substituted ''certificates of value issued by'' for ''obligations of''.

Subsec. (a)(2). Pub. L. 94–210, § 612(d)(1), inserted reference to each State or responsible person (including a governmental entity).

Subsec. (b)(1). Pub. L. 94–210, § 612(c)(2), (d)(2), (i), (*o*), (p), inserted ''or any subsidiary thereof'' after ''to the Corporation'', ''States, and responsible persons'' before ''order the trustee'', and provisions relating to orders of the trustee or trustees to execute and deliver deeds or other instruments conveying rail properties, and substituted ''person leased'' for ''railroad leased'', '', the respective profitable railroads operating in the region, States, and responsible persons'' for ''and the respective profitable railroads operating in the region'', and ''certificates of value issued by'' for ''obligations of''.

Subsec. (b)(2). Pub. L. 94–210, § 612(c)(2), (d)(3), inserted ''or any subsidiary thereof'' after ''Corporation'' and reference to States and responsible persons.

Subsec. (b)(3). Pub. L. 94–210, § 612(a), redesignated existing provisions as subpar. (A)(ii), made changes in phraseology, inserted definition of ''railroad rolling stock'' and struck out provisions relating to affect of chapter on title and interests of any lessor, etc., and added subpar. (A)(i) and (B).

Subsec. (b)(4). Pub. L. 94–210, § 612(d)(4), (k), inserted ''all future liability under such lease and'' after ''is made assumes'', and substituted '', profitable railroad, State, or responsible person'' for ''or the profitable railroad''.

Subsec. (b)(5), (6). Pub. L. 94–210, § 612(*l*), added pars. (5) and (6).

Subsec. (b)(6). Pub. L. 94–555, § 204, inserted provisions entitling the Corporation to a loan to fund accrued, non-guaranteed pension benefits under all plans transferred or assigned to the Corporation, whether terminated or not, and such loan is to be charged to the estate of railroad in reorganization as an administrative expense.

Subsec. (c)(1). Pub. L. 94–210, § 612(c)(3), (d)(5), (6), (i), (q)(1), (2), in introductory text inserted ''or any subsidiary thereof'' after ''Corporation'' and inserted reference to States and responsible persons, in subpar. (A)(i) inserted ''or any subsidiary thereof'' after ''Corporation'' and '', certificates of value'' after ''securities'', and inserted provision relating to consideration of compensable unconstitutional erosion, in subpar. (A)(ii) inserted reference to State or responsible person, and provision relating to compensation and other benefits accruing to such transferor as a result of the exchange, and in subpar. (C) inserted ''or any subsidiary thereof'' after ''Corporation''.

Subsec. (c)(2). Pub. L. 94–210, § 612(c)(4), (e), (i), (q)(3), in introductory text inserted reference to certificates of value and provision relating to consideration of compensable unconstitutional erosion, and substituted ''may'' for ''shall'', in subpar. (A) inserted reference to any subsidiary of a Corporation, exception relating to allocation to each such railroad of preferred stock, etc., '', certificates of value'' after ''securities'' and ''and certificates of value'' after ''of the Corporation'', in subpar. (B) inserted ''and certificates of value'' after ''Corporation's securities'' and '', certificates of value'' after ''other securities'', and substituted ''certificates of value issued by the Association'' for ''obligations of the Association'', and in subpar. (C) generally revised criteria for entering a judgment against the Corporation.

Subsec. (c)(2)(A). Pub. L. 94–555, § 220(b)(1), (2), substituted ''securities and certificates of value'' for ''securities and certificates of value of the Corporation and certificates of value'' after ''reallocating the'' and ''they have'' for ''it has'' after ''equitable manner''.

Subsec. (c)(2)(B). Pub. L. 94–555, § 220(b)(3), (4), substituted ''securities and certificates of value'' for ''Corporation's securities, certificates of value'' after ''reallocation of'', and substituted ''other securities'' for ''other securities and certificates of value'' after ''the railroad of''.

Subsec. (c)(3). Pub. L. 94–555, § 220(b)(5), substituted ''subsection (a)(2) of this section'' for ''section 303(a)(2)'', in the original, necessitating no change in text.

Pub. L. 94–210, § 612(d)(7), (i), (n), (q)(4), inserted references to States or responsible persons wherever appearing, provisions relating to unreimbursed payments

made by the profitable railroad on behalf of the transferor railroad in reorganization, provisions relating to consideration by the special court of compensable unconstitutional erosion, and ''certificates of value'' after ''securities'', and substituted ''certificates of value'' for ''obligations''.

Subsec. (c)(4). Pub. L. 94–210, § 612(d)(8), (h), (i), inserted '', States, and responsible persons'' after ''profitable railroads'' and ''and to persons leased, operated, or controlled by such railroads who so transferred or conveyed rail properties'' after ''region'', and substituted ''(a)'' for ''(b)'' and ''certificates of value'' for ''obligations''.

Subsec. (c)(5). Pub. L. 94–436, § 3, restructured first sentence limiting indemnification of United States to judgments against Corporation or any subsidiary entered pursuant to par. (2) and to judgments against the National Railroad Passenger Corporation, profitable railroads, a State, or any responsible person entered pursuant to par. (3).

Pub. L. 94–210, § 612(f), added par. (5).

Subsec. (c)(6). Pub. L. 94–555, § 202(b), added par. (6).

Subsec. (d). Pub. L. 94–210, § 612(g), substituted ''20'' for ''5''.

Subsec. (e). Pub. L. 94–436, § 5, inserted, after ''section 745 of this title'' in second parenthetical expression, ''or which are made at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or section 791 of this title''.

Pub. L. 94–210, § 601(d), added subsec. (e).

1975—Subsec. (c)(1)(C). Pub. L. 94–5 added subpar. (C).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–317 effective 90 days after Oct. 19, 1996, and except as otherwise provided, applicable to proceedings that arise or continue after such effective date, see section 605(e) of Pub. L. 104–317, set out as a note under section 719 of this title.

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.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Aug. 13, 1981, see section 1169 of Pub. L. 97–35, set out as an Effective Date note under section 1101 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 501(b) of Pub. L. 96–73 provided that: ''The amendments made by section 204 of this Act [enacting subsec. (b)(6)(B) of this section and section 721(h)(1)(A)(viii), (6) of this title] shall be effective as of the date of enactment [Nov. 4, 1978] of Pub. L. 95–597.''

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 SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104–88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104–88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104–88, set out as a note under section 701 of Title 49.

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

See section 1341 of this title.

CASES PENDING IN SPECIAL COURT

For applicability of amendment by Pub. L. 104–317 to cases pending in special court established under section 719(b) of this title, see section 605(d) of Pub. L. 104–317, set out as a note under section 719 of this title.

ADMINISTRATIVE CLAIM STATUS

Section 2 of Pub. L. 95–597 provided that: ''The conferring of administrative claim status on amounts paid for the insurance premiums and benefits described in the amendment made by the first section of this Act [amending this section] shall be effective solely for purposes of meeting the conditions set forth in section 211(h)(4)(A)(iii) of the Regional Rail Reorganization Act of 1973 [section 721(h)(4)(A)(iii) of this title] with respect to which obligations of the estate of a railroad in reorganization may be paid pursuant to such section 211(h) [section 721(h) of this title], and shall not be construed—

''(1) as affecting the jurisdiction of the district court having jurisdiction over such a railroad in reorganization to determine whether such insurance premiums and benefits constitute enforceable contractual obligations of the estate of such a railroad for purposes of reimbursement under such section 211(h) [section 721(h) of this title]; or

''(2) as establishing or reordering any priority which a claim against the estate of such a railroad for reimbursement for the amounts paid for such insurance premiums and benefits may or may not have under the provisions of the Bankruptcy Act [section 1 et seq. of former Title 11, Bankruptcy] or any other law.''

CORPORATION AS SUCCESSOR IN INTEREST

Section 3 of Pub. L. 95–597 provided that: ''Notwithstanding any other provision of law, any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act [section 205 of former Title 11, Bankruptcy], is the successor in interest to a railroad in reorganization shall have standing to assert, in any judicial or administrative proceeding, any claim or defense available to such railroad in reorganization with respect to whether the insurance benefits and premiums described in the amendment made by the first section of this Act [amending this section] constitute enforceable contractual obligations of the estate of such railroad in reorganization. For purposes of this section, the term 'railroad in reorganization' has the meaning given such term in paragraph (14) of section 102 of the Regional Rail Reorganization Act of 1973 [section 702(14) 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.

§ 744. Termination and continuation of rail services

(a) Discontinuance

(1) Except as provided in subsections (c) and (f) of this section, rail service on rail properties of