

alleged that any such joint operating agreement is unlawful under any antitrust law.

(Pub. L. 91-353, §5, July 24, 1970, 84 Stat. 467.)

REFERENCES IN TEXT

Any antitrust law, referred to in subsecs. (a) and (b), are the antitrust laws defined in section 1802 of this title.

CHAPTER 44—PROTECTION OF HORSES

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§ 1821. Definitions

As used in this chapter unless the context otherwise requires:

(1) The term "management" means any person who organizes, exercises control over, or administers or who is responsible for organizing, directing, or administering.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "sore" when used to describe a horse means that—

(A) an irritating or blistering agent has been applied, internally or externally, by a person to any limb of a horse,

(B) any burn, cut, or laceration has been inflicted by a person on any limb of a horse,

(C) any tack, nail, screw, or chemical agent has been injected by a person into or used by a person on any limb of a horse, or

(D) any other substance or device has been used by a person on any limb of a horse or a person has engaged in a practice involving a horse,

and, as a result of such application, infliction, injection, use, or practice, such horse suffers,

or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment was given.

(4) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(Pub. L. 91-540, §2, Dec. 9, 1970, 84 Stat. 1404; Pub. L. 94-360, §3, July 13, 1976, 90 Stat. 915.)

AMENDMENTS

1976—Pub. L. 94-360 added pars. (1) and (2), redesignated subsec. (a), defining "sore" as meaning that certain substances or devices had been applied to any limb of a horse prior to Dec. 9, 1970, resulting in, or reasonably likely to result in, such horse suffering physical pain or distress when walking or trotting, as par. (3) and, as so redesignated, struck out requirement that such substance or device had to have been applied prior to Dec. 9, 1970 in order for a horse to be considered "sored" for purposes of this chapter, and substituted par. (4) defining "State" for subsec. (b) defining "commerce" as between a point in any State or possession of the United States and any point outside thereof, or between points within the same State or possession of the United States but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.

SHORT TITLE OF 1976 AMENDMENT

Section 1(a) of Pub. L. 94-360 provided that: "This Act [amending this section and sections 1822 to 1825, 1827, 1830, and 1831 of this title and enacting provisions set out as notes under this section and section 1831 of this title] may be cited as the 'Horse Protection Act Amendments of 1976'."

SHORT TITLE

Section 1 of Pub. L. 91-540, as amended by Pub. L. 94-360, §2, July 13, 1976, 90 Stat. 915, provided: "That this Act [enacting this chapter] may be cited as the 'Horse Protection Act'."

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 1822. Congressional statement of findings

The Congress finds and declares that—

(1) the soring of horses is cruel and inhumane;

(2) horses shown or exhibited which are sore, where such soreness improves the performance of such horse, compete unfairly with horses which are not sore;

(3) the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate and foreign commerce;

(4) all horses which are subject to regulation under this chapter are either in interstate or foreign commerce or substantially affect such commerce; and

(5) regulation under this chapter by the Secretary is appropriate to prevent and eliminate

burdens upon commerce and to effectively regulate commerce.

(Pub. L. 91-540, §3, Dec. 9, 1970, 84 Stat. 1405; Pub. L. 94-360, §4, July 13, 1976, 90 Stat. 915.)

AMENDMENTS

1976—Pub. L. 94-360, among other changes, inserted findings stating that all horses subject to regulation under this chapter are either in interstate or foreign commerce or substantially affect interstate or foreign commerce, and that regulation by the Secretary is appropriate to eliminate burdens upon commerce.

§ 1823. Horse shows and exhibitions

(a) Disqualification of horses

The management of any horse show or horse exhibition shall disqualify any horse from being shown or exhibited (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) of this section or by the Secretary that the horse is sore.

(b) Prohibited activities

The management of any horse sale or auction shall prohibit the sale or auction or exhibition for the purpose of sale of any horse (1) which is sore or (2) if the management has been notified by a person appointed in accordance with regulations under subsection (c) of this section or by the Secretary that the horse is sore.

(c) Appointment of inspectors; manner of inspections

The Secretary shall prescribe by regulation requirements for the appointment by the management of any horse show, horse exhibition, or horse sale or auction of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing this chapter. Such requirements shall prohibit the appointment of persons who, after notice and opportunity for a hearing, have been disqualified by the Secretary to make such detection, diagnosis, or inspection. Appointment of a person in accordance with the requirements prescribed under this subsection shall not be construed as authorizing such person to conduct inspections in a manner other than that prescribed for inspections by the Secretary (or the Secretary's representative) under subsection (e) of this section.

(d) Recordkeeping and reporting requirements; availability of records

The management of a horse show, horse exhibition, or horse sale or auction shall establish and maintain such records, make such reports, and provide such information as the Secretary may by regulation reasonably require for the purposes of implementing this chapter or to determine compliance with this chapter. Upon request of an officer or employee duly designated by the Secretary, such management shall permit entry at all reasonable times for the inspection and copying (on or off the premises) of records required to be maintained under this subsection.

(e) Inspection by Secretary or duly appointed representative

For purposes of enforcement of this chapter (including any regulation promulgated under

this chapter) the Secretary, or any representative of the Secretary duly designated by the Secretary, may inspect any horse show, horse exhibition, or horse sale or auction or any horse at any such show, exhibition, sale, or auction. Such an inspection may only be made upon presenting appropriate credentials. Each such inspection shall be commenced and completed with reasonable promptness and shall be conducted within reasonable limits and in a reasonable manner. An inspection under this subsection shall extend to all things (including records) bearing on whether the requirements of this chapter have been complied with.

(Pub. L. 91-540, §4, Dec. 9, 1970, 84 Stat. 1405; Pub. L. 94-360, §5, July 13, 1976, 90 Stat. 916.)

AMENDMENTS

1976—Pub. L. 94-360 substituted provisions relating to the inspection and disqualification of horses participating in horse shows and exhibitions, the issuance of regulations by the Secretary, and the maintenance of records by horse show management, for provisions prohibiting as constituting unlawful acts the exhibition of sore horses, the transportation in commerce for purposes of exhibition of any horse that had been sore, and the conducting of any show or exhibition in which sore horses appear. Provisions now covering such unlawful acts are set out as section 1824 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1824, 1825 of this title.

§ 1824. Unlawful acts

The following conduct is prohibited:

(1) The shipping, transporting, moving, delivering, or receiving of any horse which is sore with reason to believe that such horse while it is sore may be shown, exhibited, entered for the purpose of being shown or exhibited, sold, auctioned, or offered for sale, in any horse show, horse exhibition, or horse sale or auction; except that this paragraph does not apply to the shipping, transporting, moving, delivering, or receiving of any horse by a common or contract carrier or an employee thereof in the usual course of the carrier's business or employee's employment unless the carrier or employee has reason to believe that such horse is sore.

(2) The (A) showing or exhibiting, in any horse show or horse exhibition, of any horse which is sore, (B) entering for the purpose of showing or exhibiting in any horse show or horse exhibition, any horse which is sore, (C) selling, auctioning, or offering for sale, in any horse sale or auction, any horse which is sore, and (D) allowing any activity described in clause (A), (B), or (C) respecting a horse which is sore by the owner of such horse.

(3) The failure by the management of any horse show or horse exhibition, which does not appoint and retain a person in accordance with section 1823(c) of this title, to disqualify from being shown or exhibited any horse which is sore.

(4) The failure by the management of any horse sale or auction, which does not appoint and retain a qualified person in accordance with section 1823(c) of this title, to prohibit the sale, offering for sale, or auction of any horse which is sore.

(5) The failure by the management of any horse show or horse exhibition, which has appointed and retained a person in accordance with section 1823(c) of this title, to disqualify from being shown or exhibited any horse (A) which is sore, and (B) after having been notified by such person or the Secretary that the horse is sore or after otherwise having knowledge that the horse is sore.

(6) The failure by the management of any horse sale or auction which has appointed and retained a person in accordance with section 1823(c) of this title, to prohibit the sale, offering for sale, or auction of any horse (A) which is sore, and (B) after having been notified by such person or the Secretary or after otherwise having knowledge that the horse is sore.

(7) The showing or exhibiting at a horse show or horse exhibition; the selling or auctioning at a horse sale or auction; the allowing to be shown, exhibited, or sold at a horse show, horse exhibition, or horse sale or auction; the entering for the purpose of showing or exhibiting in any horse show or horse exhibition; or offering for sale at a horse sale or auction, any horse which is wearing or bearing any equipment, device, paraphernalia, or substance which the Secretary by regulation under section 1828 of this title prohibits to prevent the soring of horses.

(8) The failing to establish, maintain, or submit records, notices, reports, or other information required under section 1823 of this title.

(9) The failure or refusal to permit access to or copying of records, or the failure or refusal to permit entry or inspection, as required by section 1823 of this title.

(10) The removal of any marking required by the Secretary to identify a horse as being detained.

(11) The failure or refusal to provide the Secretary with adequate space or facilities, as the Secretary may by regulation under section 1828 of this title prescribe, in which to conduct inspections or any other activity authorized to be performed by the Secretary under this chapter.

(Pub. L. 91-540, § 5, Dec. 9, 1970, 84 Stat. 1405; Pub. L. 94-360, § 6, July 13, 1976, 90 Stat. 916.)

AMENDMENTS

1976—Pub. L. 94-360 substituted provisions prohibiting the transportation, receipt, exhibition, sale, or auction of a sored horse, and the showing, sale or auction of a horse bearing any device or substance prohibited by regulation of the Secretary, and making the management of a horse show, exhibition, or sale, responsible for failure to disqualify such horses from participating, and for interfering with the conducting of inspections by the Secretary of horses in the show or of the management records, for provisions authorizing the inspection of horses, transported in commerce, and requiring the management of shows and exhibitions to maintain such records as the Secretary prescribes. Provisions now covering the maintenance of records and the inspection of horses are set out as section 1823 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1825, 1827 of this title.

§ 1825. Violations and penalties

(a) Criminal acts and penalties

(1) Except as provided in paragraph (2) of this subsection, any person who knowingly violates section 1824 of this title shall, upon conviction thereof, be fined not more than \$3,000, or imprisoned for not more than one year, or both.

(2)(A) If any person knowingly violates section 1824 of this title, after one or more prior convictions of such person for such a violation have become final, such person shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned for not more than two years, or both.

(B) Any person who knowingly makes, or causes to be made, a false entry or statement in any report required under this chapter; who knowingly makes, or causes to be made, any false entry in any account, record, or memorandum required to be established and maintained by any person or in any notification or other information required to be submitted to the Secretary under section 1823 of this title; who knowingly neglects or fails to make or cause to be made, full, true, and correct entries in such accounts, records, memoranda, notification, or other materials; who knowingly removes any such documentary evidence out of the jurisdiction of the United States; who knowingly mutilates, alters, or by any other means falsifies any such documentary evidence; or who knowingly refuses to submit any such documentary evidence to the Secretary for inspection and copying shall be guilty of an offense against the United States, and upon conviction thereof shall be fined not more than \$5,000, or imprisoned for not more than three years, or both.

(C) Any person who forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person while engaged in or on account of the performance of his official duties under this chapter shall be fined not more than \$5,000, or imprisoned not more than three years, or both. Whoever, in the commission of such acts, uses a deadly or dangerous weapon shall be fined not more than \$10,000, or imprisoned not more than ten years, or both. Whoever kills any person while engaged in or on account of the performance of his official duties under this chapter shall be punishable as provided under sections 1111 and 1112 of title 18.

(b) Civil penalties; review and enforcement

(1) Any person who violates section 1824 of this title shall be liable to the United States for a civil penalty of not more than \$2,000 for each violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation. The amount of such civil penalty shall be assessed by the Secretary by written order. In determining the amount of such penalty, the Secretary shall take into account all factors relevant to such determination, including the nature, circumstances, extent, and gravity of the prohibited conduct and, with respect to the person found to have engaged in such conduct, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Any person against whom a violation is found and a civil penalty assessed under paragraph (1) of this subsection may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found and such penalty assessed, as provided in section 2112 of title 28. The findings of the Secretary shall be set aside if found to be unsupported by substantial evidence.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection.

(c) Disqualification of offenders; orders; civil penalties applicable; enforcement procedures

In addition to any fine, imprisonment, or civil penalty authorized under this section, any person who was convicted under subsection (a) of this section or who paid a civil penalty assessed under subsection (b) of this section or is subject to a final order under such subsection assessing a civil penalty for any violation of any provision of this chapter or any regulation issued under this chapter may be disqualified by order of the Secretary, after notice and an opportunity for a hearing before the Secretary, from showing or exhibiting any horse, judging or managing any horse show, horse exhibition, or horse sale or auction for a period of not less than one year for the first violation and not less than five years for any subsequent violation. Any person who knowingly fails to obey an order of disqualification shall be subject to a civil penalty of not more than \$3,000 for each violation. Any horse show, horse exhibition, or horse sale or auction, or the management thereof, collectively and severally, which knowingly allows any person who is under an order of disqualification to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in managing or judging, or otherwise to participate in any horse show, horse exhibition, or horse sale or auction in violation of an order shall be subject to a civil penalty of not more than \$3,000 for each violation. The provisions of subsection (b) of this section respecting the assessment, review, collection, and compromise, modification, and remission of a civil penalty apply with respect to civil penalties under this subsection.

(d) Production of witnesses and books, papers, and documents; depositions; fees; presumptions; jurisdiction

(1) The Secretary may require by subpoena the attendance and testimony of witnesses and the production of books, papers, and documents relating to any matter under investigation or the subject of a proceeding. Witnesses summoned before the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(2) The attendance of witnesses, and the production of books, papers, and documents, may be required at any designated place from any place in the United States. In case of disobedience to a subpoena the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any appropriate district court of the United States in requiring attendance and testimony of witnesses and the production of such books, papers, and documents under the provisions of this chapter.

(3) The Secretary may order testimony to be taken by deposition under oath in any proceeding or investigation pending before him, at any stage of the proceeding or investigation. Depositions may be taken before any person designated by the Secretary who has power to administer oaths. The Secretary may also require the production of books, papers, and documents at the taking of depositions.

(4) Witnesses whose depositions are taken and the persons taking them shall be entitled to the same fees as paid for like services in the courts of the United States or in other jurisdictions in which they may appear.

(5) In any civil or criminal action to enforce this chapter or any regulation under this chapter a horse shall be presumed to be a horse which is sore if it manifests abnormal sensitivity or inflammation in both of its forelimbs or both of its hindlimbs.

(6) The United States district courts, the District Court of Guam, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories, are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter, except as provided in subsection (b) of this section.

(e) Detention of horses; seizure and condemnation of equipment

(1) The Secretary may detain (for a period not to exceed twenty-four hours) for examination, testing, or the taking of evidence, any horse at any horse show, horse exhibition, or horse sale or auction which is sore or which the Secretary has probable cause to believe is sore. The Secretary may require the temporary marking of any horse during the period of its detention for the purpose of identifying the horse as detained. A horse which is detained subject to this paragraph shall not be moved by any person from the place it is so detained except as authorized by the Secretary or until the expiration of the detention period applicable to the horse.

(2) Any equipment, device, paraphernalia, or substance which was used in violation of any

provision of this chapter or any regulation issued under this chapter or which contributed to the soiling of any horse at or prior to any horse show, horse exhibition, or horse sale or auction, shall be liable to be proceeded against, by process of libel for the seizure and condemnation of such equipment, device, paraphernalia, or substance, in any United States district court within the jurisdiction of which such equipment, device, paraphernalia, or substance is found. Such proceedings shall conform as nearly as possible to proceedings in rem in admiralty.

(Pub. L. 91-540, §6, Dec. 9, 1970, 84 Stat. 1406; Pub. L. 94-360, §7, July 13, 1976, 90 Stat. 918.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-360 substituted provisions increasing the maximum amount of fine that can be imposed and the maximum length of imprisonment that can be ordered for knowingly performing enumerated activities prohibited under this chapter, for provisions authorizing a maximum civil penalty of \$1,000 for each unintentional violation of this chapter, requiring notice to an alleged violator prior to assessment of any penalty and authorizing the institution of civil actions by the Attorney General to enforce such penalties.

Subsec. (b). Pub. L. 94-360 substituted provisions relating to imposition of civil penalties up to \$2,000, criteria for imposition of particular amounts, and procedures for review and enforcement of civil penalties, for provisions authorizing fines up to \$2,000 and/or imprisonment up to six months for intentional violations of provisions of this chapter or any regulation issued thereunder.

Subsecs. (c) to (e). Pub. L. 94-360 added subsecs. (c) to (e).

FEDERAL RULES OF CIVIL PROCEDURE

Admiralty and maritime rules of practice (which included libel procedures) were superseded, and civil and admiralty procedures in United States district courts were unified, effective July 1, 1966, see rule 1 and Supplemental Rules for Certain Admiralty and Maritime Claims, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 1826. Notice of violations to Attorney General

Whenever the Secretary believes that a willful violation of this chapter has occurred and that prosecution is needed to obtain compliance with this chapter, he shall inform the Attorney General and the Attorney General shall take such action with respect to such matter as he deems appropriate.

(Pub. L. 91-540, §7, Dec. 9, 1970, 84 Stat. 1406.)

§ 1827. Utilization of personnel of Department of Agriculture and officers and employees of consenting States; technical and other nonfinancial assistance to State

(a) Assistance from Department of Agriculture and States

The Secretary, in carrying out the provisions of this chapter, shall utilize, to the maximum extent practicable, the existing personnel and facilities of the Department of Agriculture. The Secretary is further authorized to utilize the officers and employees of any State, with its consent, and with or without reimbursement, to assist him in carrying out the provisions of this chapter.

(b) Assistance to States

The Secretary may, upon request, provide technical and other nonfinancial assistance (in-

cluding the lending of equipment on such terms and conditions as the Secretary determines is appropriate) to any State to assist it in administering and enforcing any law of such State designed to prohibit conduct described in section 1824 of this title.

(Pub. L. 91-540, §8, Dec. 9, 1970, 84 Stat. 1406; Pub. L. 94-360, §8, July 13, 1976, 90 Stat. 920.)

AMENDMENTS

1976—Pub. L. 94-360 designated existing provisions as subsec. (a) and added subsec. (b).

§ 1828. Rules and regulations

The Secretary is authorized to issue such rules and regulations as he deems necessary to carry out the provisions of this chapter.

(Pub. L. 91-540, §9, Dec. 9, 1970, 84 Stat. 1406.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1824 of this title.

§ 1829. Preemption of State laws; concurrent jurisdiction; prohibition on certain State action

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together. Nor shall any provision of this chapter be construed to exclude the Federal Government from enforcing the provision of this chapter within any State, whether or not such State has enacted legislation on the same subject, it being the intent of the Congress to establish concurrent jurisdiction with the States over such subject matter. In no case shall any such State take any action pursuant to this section involving a violation of any such law of that State which would preclude the United States from enforcing the provisions of this chapter against any person.

(Pub. L. 91-540, §10, Dec. 9, 1970, 84 Stat. 1406.)

§ 1830. Report to the Congress

As part of the report submitted by the Secretary under section 2155 of title 7, the Secretary shall include information on the matters covered by this chapter, including enforcement and other actions taken thereunder, together with such recommendations for legislative and other action as he deems appropriate.

(Pub. L. 91-540, §11, Dec. 9, 1970, 84 Stat. 1406; Pub. L. 94-360, §9, July 13, 1976, 90 Stat. 920; Pub. L. 104-66, title I, §1012(b), Dec. 21, 1995, 109 Stat. 711.)

AMENDMENTS

1995—Pub. L. 104-66 substituted "As part of the report submitted by the Secretary under section 2155 of title 7, the Secretary shall include information on" for "On or before the expiration of thirty calendar months following December 9, 1970, and every twelve calendar months thereafter, the Secretary shall submit to the Congress a report upon".

1976—Pub. L. 94-360 substituted “twelve calendar months” for “twenty-four calendar-month period”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2155.

§ 1831. Authorization of appropriations

There are authorized to be appropriated to carry out this chapter \$125,000 for the period beginning July 1, 1976, and ending September 30, 1976; and for the fiscal year beginning October 1, 1976, and for each fiscal year thereafter there are authorized to be appropriated such sums, not to exceed \$500,000, as may be necessary to carry out this chapter.

(Pub. L. 91-540, §12, Dec. 9, 1970, 84 Stat. 1407; Pub. L. 94-360, §10, July 13, 1976, 90 Stat. 921.)

AMENDMENTS

1976—Pub. L. 94-360 substituted provisions authorizing \$125,000 to be appropriated for the period beginning July 1, 1976 and ending September 30, 1976, and \$500,000 to be appropriated for the fiscal year beginning October 1, 1976, and each fiscal year thereafter, to carry out the purposes of this chapter, for provisions authorizing not more than \$100,000 to be appropriated annually to carry out the provisions of this chapter.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 10 of Pub. L. 94-360 provided that the amendment made by that section is effective July 1, 1976.

CHAPTER 45—EMERGENCY LOAN GUARANTEES TO BUSINESS ENTERPRISES

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1842.	Authority for loan guarantees; terms and conditions.
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1844.	Security for loan guarantees.
1845.	Requirements applicable to loan guarantees. <ul style="list-style-type: none"> (a) Stock dividends or other payments, prohibition; waiver. (b) Managerial changes. (c) Financial statement; access to documents. (d) Exhaustion of remedies. (e) Protective provisions; advances. (f) Loan security, priority; collateral.
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Sec.	
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§ 1841. Emergency Loan Guarantee Board; establishment; membership; voting

There is created an Emergency Loan Guarantee Board (referred to in this chapter as the “Board”) composed of the Secretary of the Treasury, as Chairman, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Securities and Exchange Commission. Decisions of the Board shall be made by majority vote.

(Pub. L. 92-70, §2, Aug. 9, 1971, 85 Stat. 178.)

SHORT TITLE

Section 1 of Pub. L. 92-70 provided that: “This Act [enacting this chapter] may be cited as the ‘Emergency Loan Guarantee Act.’”

§ 1842. Authority for loan guarantees; terms and conditions

The Board, on such terms and conditions as it deems appropriate, may guarantee, or make commitments to guarantee, lenders against loss of principal or interest on loans that meet the requirements of this chapter.

(Pub. L. 92-70, §3, Aug. 9, 1971, 85 Stat. 178.)

§ 1843. Limitations and conditions of loan guarantees

(a) Necessary findings

A guarantee of a loan may be made under this chapter only if—

- (1) the Board finds that (A) the loan is needed to enable the borrower to continue to furnish goods or services and failure to meet this need would adversely and seriously affect the economy of or employment in the Nation or any region thereof, (B) credit is not otherwise available to the borrower under reasonable terms or conditions, and (C) the prospective earning power of the borrower, together with the character and value of the security pledged, furnish reasonable assurance that it will be able to repay the loan within the time fixed, and afford reasonable protection to the United States; and
- (2) the lender certifies that it would not make the loan without such guarantee.

(b) Term of loans; renewal

Loans guaranteed under this chapter shall be payable in not more than five years, but may be renewable for not more than an additional three years.

(c) Interest rates, determination; guarantee fee

(1) Loans guaranteed under this chapter shall bear interest payable to the lending institutions at rates determined by the Board taking into account the reduction in risk afforded by the loan guarantee and rates charged by lending institutions on otherwise comparable loans.

(2) The Board shall prescribe and collect a guarantee fee in connection with each loan guaranteed under this chapter. Such fee shall reflect the Government's administrative expense in making the guarantee and the risk assumed