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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### § 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

by the Government and shall not be less than an amount which, when added to the amount of interest payable to the lender of such loan, produces a total charge appropriate for loan agreements of comparable risk and maturity if supplied by the normal capital markets.

(Pub. L. 92–70, § 4, Aug. 9, 1971, 85 Stat. 178.)

### § 1844. Security for loan guarantees

In negotiating a loan guarantee under this chapter, the Board shall make every effort to arrange that the payment of the principal of and interest on any plan guaranteed shall be secured by sufficient property of the enterprise to collateralize fully the amount of the loan guarantee.

(Pub. L. 92–70, § 5, Aug. 9, 1971, 85 Stat. 179.)

### § 1845. Requirements applicable to loan guarantees

#### (a) Stock dividends or other payments, prohibition; waiver

A guarantee agreement made under this chapter with respect to an enterprise shall require that while there is any principal or interest remaining unpaid on a guaranteed loan to that enterprise the enterprise may not—

(1) declare a dividend on its common stock; or

(2) make any payment on its other indebtedness to a lender whose loan has been guaranteed under this chapter.

The Board may waive either or both of the requirements set forth in this subsection, as specified in the guarantee agreement covering a loan to any particular enterprise, if it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee.

#### (b) Managerial changes

If the Board determines that the inability of an enterprise to obtain credit without a guarantee under this chapter is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the enterprise, the Board shall require before guaranteeing any loan to the enterprise that the enterprise make such management changes as the Board deems necessary to give the enterprise a sound managerial base.

#### (c) Financial statement; access to documents

A guarantee of a loan to any enterprise shall not be made under this chapter unless—

(1) the Board has received an audited financial statement of the enterprise; and

(2) the enterprise permits the Board to have the same access to its books and other documents as the Board would have under section 1846 of this title in the event the loan is guaranteed.

#### (d) Exhaustion of remedies

No payment shall be made or become due under a guarantee entered into under this chapter unless the lender has exhausted any remedies which it may have under the guarantee agreement.

#### (e) Protective provisions; advances

(1) Prior to making any guarantee under this chapter, the Board shall satisfy itself that the underlying loan agreement on which the guarantee is sought contains all the affirmative and negative covenants and other protective provisions which are usual and customary in loan agreements of a similar kind, including previous loan agreements between the lender and the borrower, and that it cannot be amended, or any provisions waived, without the Board's prior consent.

(2) On each occasion when the borrower seeks an advance under the loan agreement, the guarantee authorized by this chapter shall be in force as to the funds advanced only if—

(A) the lender gives the Board at least ten days' notice in writing of its intent to provide the borrower with funds pursuant to the loan agreement;

(B) the lender certifies to the Board before an advance is made that, as of the date of the notice provided for in subparagraph (A), the borrower is not in default under the loan agreement: *Provided*, That if a default has occurred the lender shall report the facts and circumstances relating thereto to the Board and the Board may expressly and in writing waive such default in any case where it determines that such waiver is not inconsistent with the reasonable protection of the interests of the United States under the guarantee; and

(C) the borrower provides the Board with a plan setting forth the expenditures for which the advance will be used and the period during which the expenditures will be made, and, upon the expiration of such periods, reports to the Board any instances in which amounts advanced have not been expended in accordance with the plan.

#### (f) Loan security, priority; collateral

(1) A guarantee agreement made under this chapter shall contain a requirement that as between the Board and the lender, the Board shall have a priority with respect to, and to the extent of, the lender's interest in any collateral securing the loan and any earlier outstanding loans. The Board shall take all steps necessary to assure such priority against any other persons.

(2) As used in paragraph (1) of this subsection, the term ''collateral'' includes all assets pledged under loan agreements and, if appropriate in the opinion of the Board, all sums of the borrower on deposit with the lender and subject to offset under section 68 of the Bankruptcy Act.

(Pub. L. 92–70, § 6, Aug. 9, 1971, 85 Stat. 179.)

REFERENCES IN TEXT

Section 68 of the Bankruptcy Act, referred to in subsec. (f)(2), was classified to section 108 of former Title 11, Bankruptcy. The Bankruptcy Act 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. See sections 502(b)(3) and 553 of Title 11.

### § 1846. Powers and duties

#### (a) Board; inspection of documents; disapproval of certain transactions

The Board is authorized to inspect and copy all accounts, books, records, memoranda, cor-

respondence, and other documents of any enterprise which has received financial assistance under this chapter concerning any matter which may bear upon (1) the ability of such enterprise to repay the loan within the time fixed therefor; (2) the interests of the United States in the property of such enterprise; and (3) the assurance that there is reasonable protection to the United States. The Board is authorized to disapprove any transaction of such enterprise involving the disposition of its assets which may affect the repayment of a loan that has been guaranteed pursuant to the provisions of this chapter.

**(b) General Accounting Office; audit; report to Board and Congress**

The General Accounting Office shall make a detailed audit of all accounts, books, records, and transactions of any borrower with respect to which an application for a loan guarantee is made under this chapter. The General Accounting Office shall report the results of such audit to the Board and to the Congress.

(Pub. L. 92–70, § 7, Aug. 9, 1971, 85 Stat. 180.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1845 of this title.

**§ 1847. Maximum obligation**

The maximum obligation of the Board under all outstanding loans guaranteed by it shall not exceed at any time $250,000,000.

(Pub. L. 92–70, § 8, Aug. 9, 1971, 85 Stat. 181.)

**§ 1848. Emergency loan guarantee fund**

**(a) Establishment; use; investment**

There is established in the Treasury an emergency loan guarantee fund to be administered by the Board. The fund shall be used for the payment of the expenses of the Board and for the purpose of fulfilling the Board's obligations under this chapter. Moneys in the fund not needed for current operations may be invested in direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof.

**(b) Guarantee fee; deposits in fund**

The Board shall prescribe and collect a guarantee fee in connection with each loan guaranteed by it under this chapter. Sums realized from such fees shall be deposited in the emergency loan guarantee fund.

**(c) Payments; issuance of notes or other obligations when fund moneys insufficient: forms and denominations, maturities, terms and conditions, interest rate; public debt transaction**

Payments required to be made as a consequence of any guarantee by the Board shall be made from the emergency loan guarantee fund. In the event that moneys in the fund are insufficient to make such payments, in order to discharge its responsibilities, the Board is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Board with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate 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 the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31 and the purposes for which securities may be issued under that chapter are extended to include any purchase of such notes and obligations.

(Pub. L. 92–70, § 9, Aug. 9, 1971, 85 Stat. 181.)

CODIFICATION

In subsec. (c), ''chapter 31 of title 31'' and ''that chapter'' substituted for ''the Second Liberty Bond Act, as amended,'' and ''that 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.

**§ 1849. Federal Reserve banks as fiscal agents**

Any Federal Reserve bank which is requested to do so shall act as fiscal agent for the Board. Each such fiscal agent shall be reimbursed by the Board for all expenses and losses incurred by it in acting as agent on behalf of the Board.

(Pub. L. 92–70, § 10, Aug. 9, 1971, 85 Stat. 181.)

**§ 1850. Protection of Government's interest**

**(a) Attorney General, enforcement authority; payments into emergency loan guarantee fund**

The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this chapter. Any sums recovered pursuant to this section shall be paid into the emergency loan guarantee fund.

**(b) Recovery rights; subrogation**

The Board shall be entitled to recover from the borrower, or any other person liable therefor, the amount of any payments made pursuant to any guarantee agreement entered into under this chapter, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(Pub. L. 92–70, § 11, Aug. 9, 1971, 85 Stat. 181.)

**§ 1851. Reports to Congress; recommendations**

The Board shall submit to the Congress annually a full report of its operations under this chapter. In addition, the Board shall submit to the Congress a special report not later than June 30, 1973, which shall include a full report of the Board's operations together with its recommendations with respect to the need to continue the guarantee program beyond the termination date specified in section 1852 of this title. If the Board recommends that the program should be

continued beyond such termination date, it shall state its recommendations with respect to the appropriate board, agency, or corporation which should administer the program.

(Pub. L. 92–70, § 12, Aug. 9, 1971, 85 Stat. 182.)

### § 1852. Termination date

The authority of the Board to enter into any guarantee or to make any commitment to guarantee under this chapter terminates on December 31, 1973. Such termination does not affect the carrying out of any contract, guarantee, commitment, or other obligation entered into pursuant to this chapter prior to that date, or the taking of any action necessary to preserve or protect the interests of the United States in any amounts advanced or paid out in carrying on operations under this chapter.

(Pub. L. 92–70, § 13, Aug. 9, 1971, 85 Stat. 182.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1851 of this title.

## CHAPTER 45A—CHRYSLER CORPORATION LOAN GUARANTEE

### §§ 1861 to 1875. Omitted

CODIFICATION

Sections, Pub. L. 96–185, §§ 1–16, Jan. 7, 1980, 93 Stat. 1324, were omitted in view of the termination of authority to make commitments to guarantee or issue guarantees under this chapter on Dec. 31, 1983, pursuant to section 1875 of this title, and the total repayment of loans guaranteed under this chapter.

Section 1861 provided definitions for this chapter.

Section 1862 related to establishment and composition of Chrysler Corporation Loan Guarantee Board.

Section 1863 related to commitments for loan guarantees.

Section 1864 related to requirements of loan guarantees.

Section 1865 related to requirements applicable to employees.

Section 1866 related to employee stock ownership plan.

Section 1867 related to limitations on guarantee authority.

Section 1868 related to terms and conditions of loan guarantees.

Section 1869 related to inspection, audit, and investigation.

Section 1870 related to protection of Government's interest.

Section 1871 related to long-term planning study.

Section 1872 related to ineligibility of guaranteed loans for purchase by or sale or issuance to Federal Financing Bank or other Federal entity partly or wholly owned by United States.

Section 1873 related to reports to Congress.

Section 1874 related to authorization of appropriations.

Section 1875 provided that authority to make commitments to guarantee or to issue guarantees under this chapter expires on Dec. 31, 1983.

## CHAPTER 46—MOTOR VEHICLE INFORMATION AND COST SAVINGS

### § 1901. Repealed. Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379

Section, Pub. L. 92–513, § 2, Oct. 20, 1972, 86 Stat. 947; Pub. L. 94–163, title III, § 301, Dec. 22, 1975, 89 Stat. 901; Pub. L. 96–425, § 8(a)(2), Oct. 10, 1980, 94 Stat. 1828; Pub. L. 98–547, title I, § 101(b), Oct. 25, 1984, 98 Stat. 2767, defined terms for purposes of this chapter, except subchapter V of this chapter. See sections 32101, 32301, and 32502 of Title 49, Transportation.

SHORT TITLE

Pub. L. 92–513, § 1, Oct. 20, 1972, 86 Stat. 947, provided that Pub. L. 92–513 (enacting this chapter) could be cited as the ''Motor Vehicle Information and Cost Savings Act'', prior to repeal by Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379.

## SUBCHAPTER I—BUMPER STANDARDS

### §§ 1911 to 1922. Repealed. Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379

Section 1911, Pub. L. 92–513, title I, § 101, Oct. 20, 1972, 86 Stat. 948, stated congressional findings and declaration of purpose of this subchapter. See section 32501 of Title 49, Transportation.

Section 1912, Pub. L. 92–513, title I, § 102, Oct. 20, 1972, 86 Stat. 949, related to promulgation of bumper standards. See section 32502 of Title 49.

Section 1913, Pub. L. 92–513, title I, § 103, Oct. 20, 1972, 86 Stat. 950, related to judicial review of rules establishing bumper standards. See section 32503 of Title 49.

Section 1914, Pub. L. 92–513, title I, § 104, Oct. 20, 1972, 86 Stat. 950, related to powers of Secretary in carrying out this subchapter. See sections 32502, 32505, and 32509 of Title 49.

Section 1915, Pub. L. 92–513, title I, § 105, Oct. 20, 1972, 86 Stat. 952, related to determination of compliance by manufacturer with bumper standards. See sections 32504 and 32505 of Title 49.

Section 1916, Pub. L. 92–513, title I, § 106, Oct. 20, 1972, 86 Stat. 952, related to prohibited acts with respect to bumper standards and exemptions from compliance with such standards. See section 32506 of Title 49.

Section 1917, Pub. L. 92–513, title I, § 107, Oct. 20, 1972, 86 Stat. 953, related to enforcement of this subchapter. See section 32507 of Title 49.

Section 1918, Pub. L. 92–513, title I, § 108, Oct. 20, 1972, 86 Stat. 955, related to civil action against manufacturer for failure to comply with bumper standards. See section 32508 of Title 49.

Section 1919, Pub. L. 92–513, title I, § 109, Oct. 20, 1972, 86 Stat. 955, related to public access to information sent or received by the Secretary in connection with this subchapter. See section 32505 of Title 49.

Section 1920, Pub. L. 92–513, title I, § 110, Oct. 20, 1972, 86 Stat. 955, related to State and local bumper standards and bumper standards for vehicles owned by Federal, State, or local governments. See section 32511 of Title 49.

Section 1921, Pub. L. 92–513, title I, § 111, Oct. 20, 1972, 86 Stat. 955; Pub. L. 94–364, title I, § 101, July 14, 1976, 90 Stat. 981; Pub. L. 97–331, § 2(b), Oct. 15, 1982, 96 Stat. 1619, authorized appropriations to carry out this subchapter for fiscal years 1983, 1984, and 1985.

Section 1922, Pub. L. 92–513, title I, § 112, Oct. 20, 1972, 86 Stat. 955, directed Secretary to submit annual report to President and Congress on progress in carrying out this subchapter and specified contents of report. See section 32510 of Title 49.

## SUBCHAPTER II—AUTOMOBILE CONSUMER INFORMATION STUDY

### §§ 1941 to 1950. Repealed. Pub. L. 103–272, § 7(b), July 5, 1994, 108 Stat. 1379

Section 1941, Pub. L. 92–513, title II, § 201, Oct. 20, 1972, 86 Stat. 956; Pub. L. 94–364, title II, § 201, July 14, 1976, 90 Stat. 981, related to consumer information study to be conducted by Secretary. See section 32302 of Title 49, Transportation.

Section 1942, Pub. L. 92–513, title II, § 202, Oct. 20, 1972, 86 Stat. 956, related to appointment and compensation of personnel by Secretary to carry out this subchapter. See section 32306 of Title 49.