

tion 702 of Pub. L. 103-394, set out as a note under section 101 of Title 11.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-221 effective on Mar. 31, 1980, see section 308(e) of Pub. L. 96-221, set out as a note under section 1817 of this title.

#### APPLICABILITY OF 1980 AMENDMENT

Section 308(c)(2) of Pub. L. 96-221 provided that: "The amendment made by this subsection [amending this section] is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section [see section 308(e) of Pub. L. 96-221, set out as an Effective Date of 1980 Amendment note under section 1817 of this title]."

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-153 applicable only to claims arising after Dec. 21, 1979, with respect to a closing of a bank, etc., see section 323(e) of Pub. L. 96-153, set out as an Effective and Termination Dates of 1979 Amendment note under section 1728 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 502(b) of Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, and transitional provisions, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of this title.

Section 1402 of title XIV of Pub. L. 95-630 provided that: "This title [amending this section and sections 1728 and 1821 of this title] shall take effect upon enactment [Nov. 10, 1978]."

#### EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by section 101(c)(1), (2) of Pub. L. 93-495 see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

Section 104(b), (c) of Pub. L. 93-495 provided that:

"(b) The amendment made by this section [amending this section] is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of title II of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

"(c) The amendment made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act [Oct. 28, 1974]."

#### TEMPORARY ADJUSTMENT IN STANDARD MAXIMUM SHARE INSURANCE AMOUNT

Subsec. (k)(5) of this section to apply with "\$250,000" substituted for "\$100,000" during period beginning on Oct. 3, 2008, and ending on Dec. 31, 2009, see section 5241(b)(1) of this title.

### § 1788. Special assistance to avoid liquidation

#### (a) Loans; purchase of assets; accounts; agreements affecting interest of Board in any asset acquired by it

(1) In order to reopen a closed insured credit union or in order to prevent the closing of an insured credit union which the Board has determined is in danger of closing or in order to assist in the voluntary liquidation of a solvent credit union, the Board, in its discretion, is authorized to make loans to, or purchase the assets of, or establish accounts in such insured credit union upon such terms and conditions as it may prescribe. Except with respect to the voluntary liquidation of a solvent credit union, such loans shall be made and such accounts shall be established only when, in the opinion of

the Board, such action is necessary to protect the fund or the interests of the members of the credit union.

(2) Whenever in the judgment of the Board such action will reduce the risk or avert a threatened loss to the fund and will facilitate a merger or consolidation of an insured credit union with another insured credit union, or will facilitate the sale of the assets of an open or closed insured credit union to and assumption of its liability by another person, the Board may, upon such terms and conditions as it may determine, make loans secured in whole or in part by assets of an open or closed insured credit union, which loans may be in subordination to the rights of members and creditors of such credit union, or the Board may purchase any of such assets or may guarantee any person against loss by reason of its assuming the liabilities and purchasing the assets of an open or closed insured credit union. For purposes of this paragraph, the term "person" means any credit union, individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(3) No agreement which tends to diminish or defeat the right, title, or interest of the Board, in any asset acquired by it under this subsection, either as security for a loan or by purchase, shall be valid against the Board unless such agreement—

(A) shall be in writing;

(B) shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

(C) shall have been approved by the board of directors of the credit union, which approval shall be reflected in the minutes of such board; and

(D) shall have been continuously, from the time of its execution, an official record of the credit union.

#### (b) Protection of Fund

For the protection of the Fund, the Board, without regard to chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, may—

(1) deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, sell for cash or credit, or lease, in its discretion, any real property acquired or held by it under this section; and

(2) assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security assigned to or held by it under this section.

Section 6101 of title 41 shall not apply to any purchase or contract for services or supplies made or entered into by the Board under this section if the amount thereof does not exceed \$1,000, or to any contract for hazard insurance on any real property acquired or held by it under this section.

#### (c) Money paid into Fund

Money received by the Board in carrying out this section shall be paid into the Fund.

(June 26, 1934, ch. 750, title II, §208, as added Pub. L. 91-468, §1(3), Oct. 19, 1970, 84 Stat. 1013; amended Pub. L. 92-221, §3, Dec. 23, 1971, 85 Stat. 797; Pub. L. 93-383, title VII, §729, Aug. 22, 1974, 88 Stat. 721; Pub. L. 95-630, title V, §502(b), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 100-86, title VII, §714(b), (c), Aug. 10, 1987, 101 Stat. 655.)

#### CODIFICATION

In subsec. (b), “chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” substituted for “the Federal Property and Administrative Services Act of 1949” and “Section 6101 of title 41” substituted for “Section 3709 of the Revised Statutes of the United States” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### AMENDMENTS

1987—Subsecs. (c), (d). Pub. L. 100-86 redesignated subsec. (c) as section 1787(j) of this title and subsec. (d) as (c).

1978—Pub. L. 95-630 substituted “Board” for “Administrator” wherever appearing, “it” for “he” and “its” for “him”, and “its” for “his”, where appropriate.

1974—Subsec. (a)(1). Pub. L. 93-383 inserted provisions relating to the voluntary liquidation of a solvent credit union and struck out provisions subordinating loans and accounts to the rights of members and creditors of the credit union.

1971—Subsec. (a)(2). Pub. L. 92-221 substituted “assumption of its liability by another person” for “assumption of its liability by another insured credit union” and “may guarantee any person against loss by reason of his” for “may guarantee any other insured credit union against loss by reason of its” and inserted definition of “person” as that term is used in par. (2).

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-630 effective on expiration of 120 days after Nov. 10, 1978, and transitional provisions, see section 509 of Pub. L. 95-630, set out as a note under section 1752 of this title.

### § 1789. Administrative provisions

(a) In carrying out the purposes of this subchapter, the Board may—

(1) make contracts;

(2) sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Board shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy. The Board may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect, except that any such suit to which the Board is a party in its capacity as liquidating agent of a State-chartered credit union and which involves only the rights or obligations of members, creditors, and such State credit union under State law shall not be deemed to arise under the laws of the United States. No attachment or execution shall be issued against the Board or its prop-

erty before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Board shall designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any insured credit union is located;

(3) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of \$5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

(4) to appoint such officers and employees as are not otherwise provided for in this chapter, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this chapter or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Administration of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof;

(5) employ experts and consultants or organizations thereof, as authorized by section 3109 of title 5;

(6) prescribe the manner in which its general business may be conducted and the privileges granted to it by law may be exercised and enjoyed;

(7) exercise all powers specifically granted by the provisions of this subchapter and such incidental powers as shall be necessary to carry out the power so granted;

(8) make examinations of and require information and reports from insured credit unions, as provided in this subchapter;

(9) act as liquidating agent;

(10) delegate to any officer or employee of the Administration such of its functions as it deems appropriate; and

(11) prescribe such rules and regulations as it may deem necessary or appropriate to carry out the provisions of this subchapter.

(b) With respect to the financial operations arising by reason of this subchapter, the Board shall—

(1) prepare annually and submit a business-type budget as provided for wholly owned Government corporations by chapter 91 of title 31; and

(2) maintain an integral set of accounts, which shall be audited by the Government Accountability Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 9105<sup>1</sup> of title 31.

(June 26, 1934, ch. 750, title II, §209, as added Pub. L. 91-468, §1(3), Oct. 19, 1970, 84 Stat. 1014; amended Pub. L. 93-604, title VII, §706, Jan. 2, 1975, 88 Stat. 1964; Pub. L. 95-630, title V, §502(b), Nov. 10, 1978, 92 Stat. 3681; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-351, title VII, §726(24), Oct. 13, 2006, 120 Stat. 2003.)

<sup>1</sup> See References in Text note below.