

(6) a farmer or rancher.

**(b) Nongovernmental employees**

Service as a member of the Board shall not constitute employment by, or the holding of, an office of the United States for the purposes of any Federal law.

**(c) Membership**

**(1) Initial members**

The Secretary shall appoint 9 persons who meet the criteria established under subsection (a) of this section as the initial members of the Board and designate 1 of the members as the initial chairperson for a 2-year term.

**(2) Terms of office**

**(A) In general**

A member of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

**(B) Limitation on terms**

No individual may serve more than 2 consecutive 3-year terms as a member of the Board.

**(3) Subsequent members**

The initial members of the Board shall adopt procedures in the constitution of the Foundation for the nomination and selection of subsequent members of the Board. The procedures shall require that each member, at a minimum, meets the criteria established under subsection (a) of this section and shall provide for the selection of an individual, who is not a Federal officer or a member of the Board.

**(d) Chairperson**

After the appointment of an initial chairperson under subsection (c)(1) of this section, each succeeding chairperson of the Board shall be elected by the members of the Board for a 2-year term.

**(e) Vacancies**

A vacancy on the Board shall be filled by the Board not later than 60 days after the occurrence of the vacancy.

**(f) Compensation**

A member of the Board shall receive no compensation from the Foundation for the service of the member on the Board.

**(g) Travel expenses**

While away from the home or regular place of business of a member of the Board in the performance of services for the Board, the member shall be allowed travel expenses paid by the Foundation, including per diem in lieu of subsistence, at the same rate as a person employed intermittently in the Government service is allowed under section 5703 of title 5.

(Pub. L. 104-127, title III, § 354, Apr. 4, 1996, 110 Stat. 1011.)

**§ 5804. Officers and employees**

**(a) In general**

The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than appoint the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of this chapter; and

(3) undertake any other activities that may be necessary to carry out this chapter.

**(b) Officers and employees**

**(1) Appointment and hiring**

An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5 governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of \$125,000 per year.

**(2) Executive Director**

**(A) Initial Director**

The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

**(B) Subsequent Directors**

The Board shall appoint each subsequent Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

**(C) Qualifications**

The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

(Pub. L. 104-127, title III, § 355, Apr. 4, 1996, 110 Stat. 1012.)

**§ 5805. Corporate powers and obligations of Foundation**

**(a) In general**

The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

**(b) Seal**

The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

**(c) Powers**

To carry out the purposes of the Foundation under section 5802(b) of this title, the Foundation shall have, in addition to the powers other—

wise provided under this chapter, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 5809 of this title may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) on the written approval of the Secretary, to use, license, or transfer symbols, slogans, and logos of the Foundation (exclusive of any symbol or logo of a governmental entity);

(5) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 5808 of this title, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed \$1,000,000;

(6) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(7) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(8) to do any and all acts that are necessary to carry out the purposes of the Foundation.

**(d) Interests in property**

**(1) Interests in real property**

The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. An interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural, natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

**(2) Gifts**

A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

**(3) Use of symbols, slogans, and logos of the Foundation**

**(A) In general**

The Secretary may authorize the Foundation to use, license, or transfer symbols, slogans, and logos of the Foundation.

**(B) Income**

**(i) In general**

All revenue received by the Foundation from the use, licensing, or transfer of sym-

bols, slogans, and logos of the Foundation shall be transferred to the Secretary.

**(ii) Conservation operations**

The Secretary shall transfer all revenue received under clause (i) to the account within the Natural Resources Conservation Service that is used to carry out conservation operations.

(Pub. L. 104-127, title III, §356, Apr. 4, 1996, 110 Stat. 1013; Pub. L. 107-171, title II, §2506, May 13, 2002, 116 Stat. 274.)

AMENDMENTS

2002—Subsec. (c)(4) to (8). Pub. L. 107-171, §2506(1), which directed amendment of subsection (c) of section 356 of the Federal Agriculture Improvement Act of 1996 by adding par. (4) and redesignating former pars. (4) to (7) as (5) to (8), respectively, was executed to subsec. (c) of this section, which is section 356 of the Federal Agriculture Improvement and Reform Act of 1996, to reflect the probable intent of Congress.

Subsec. (d)(3). Pub. L. 107-171, §2506(2), which directed amendment of subsection (d) of section 356 of the Federal Agriculture Improvement Act of 1996 by adding par. (3), was executed to subsec. (d) of this section, which is section 356 of the Federal Agriculture Improvement and Reform Act of 1996, to reflect the probable intent of Congress.

**§ 5806. Administrative services and support**

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

(Pub. L. 104-127, title III, §357, Apr. 4, 1996, 110 Stat. 1014.)

**§ 5807. Audits and petition of Attorney General for equitable relief**

**(a) Audits**

**(1) In general**

The accounts of the Foundation shall be audited in accordance with section 10101 of title 36, including an audit of lobbying and litigation activities carried out by the Foundation.

**(2) Repealed. Pub. L. 105-225, § 6(b), Aug. 12, 1998, 112 Stat. 1499**

**(b) Relief with respect to certain Foundation acts or failure to act**

The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this chapter; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this chapter.

(Pub. L. 104-127, title III, §358, Apr. 4, 1996, 110 Stat. 1014; Pub. L. 105-225, § 6(b), Aug. 12, 1998, 112 Stat. 1499.)

CODIFICATION

“Section 10101 of title 36” substituted in subsec. (a)(1) for “Public Law 88-504 (36 U.S.C. 1101 et seq.)” on authority of Pub. L. 105-225, § 5(b), Aug. 12, 1998, 112 Stat. 1499, the first section of which enacted Title 36, Patriotic and National Observances, Ceremonies, and Organizations.