

L. 104-294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

#### HISTORICAL AND REVISION NOTES

Based on sections 595, 1125, and 1315 of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, first sentence of second paragraph, 38 Stat. 272; July 17, 1916, ch. 245, § 211(e), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1460; June 21, 1917, ch. 32, § 11, 40 Stat. 240; Sept. 26, 1918, ch. 177, § 5, part 22(c), 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, § 216(e), 42 Stat. 1472).

The punishment provisions of the three sections were identical, and all other provisions thereof were similar, except that section 595 of title 12, U.S.C., 1940 ed., Banks and Banking, relating to officers, directors, employees, or attorneys of member banks of the Federal Reserve System, did not include the terms "agent" and "acceptance" and did not include the phrase "or extension or renewal of loan or substitution of security".

Words "shall be deemed guilty of a misdemeanor" were omitted because of definition of misdemeanor in section 1 of this title.

Words "and upon conviction" and "and shall upon conviction thereof" were omitted as surplusage because punishment cannot be imposed until after conviction.

Verbal changes were made for style purposes.

#### PRIOR PROVISIONS

A prior section 215 of this title was renumbered section 211.

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-294 substituted "\$1,000" for "\$100" in concluding provisions.

1994—Subsec. (a). Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$1,000" in concluding provisions.

1990—Subsec. (a). Pub. L. 101-647 substituted "30" for "20" before "years" in concluding provisions.

1989—Subsec. (a). Pub. L. 101-73, § 961(a), in closing provisions, substituted "\$1,000,000" for "\$5,000" and "20 years" for "five years".

Subsec. (b). Pub. L. 101-73, § 962(e)(1), transferred subsec. (b) to section 20 of this title.

1986—Pub. L. 99-370 amended section generally, combining in subsec. (a) the statement of prohibited activities formerly set out in subsecs. (a) and (b), transferring to subsec. (b) and expanding provisions formerly set out in subsec. (c) which defined "financial institution", transferring to subsec. (c) and amending provisions formerly set out in subsec. (d) relating to applicability of section, and adding new subsec. (d) relating to establishment of guidelines to assist financial institutions in complying with this section.

1984—Pub. L. 98-473 amended section generally. Prior to amendment section read as follows: "Whoever, being an officer, director, employee, agent, or attorney of any bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, of a Federal intermediate credit bank, or of a National Agricultural Credit Corporation, except as provided by law, stipulates for or receives or consents or agrees to receive any fee, commission, gift, or thing of value, from any person, firm, or corporation, for procuring or endeavoring to procure for such person, firm, or corporation, or for any other person, firm, or corporation, from any such bank or corporation, any loan or extension or renewal of loan or substitution of security, or the purchase or discount or acceptance of any paper, note, draft, check, or bill of exchange by any such bank or corporation, shall be fined not more than \$5,000 or imprisoned not more than one year or both."

1950—Act Sept. 21, 1950, substituted "any bank, the deposits of which are insured by the Federal Deposit Insurance Corporation" for "a member bank of the Federal Reserve System".

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 3 of Pub. L. 99-370 provided that: "This Act and the amendments made by this Act [amending this

section and enacting a provision set out as a note under section 201 of this title] shall take effect 30 days after the date of the enactment of this Act [Aug. 4, 1986]."

#### § 216. Penalties and injunctions

(a) The punishment for an offense under section 203, 204, 205, 207, 208, or 209 of this title is the following:

(1) Whoever engages in the conduct constituting the offense shall be imprisoned for not more than one year or fined in the amount set forth in this title, or both.

(2) Whoever willfully engages in the conduct constituting the offense shall be imprisoned for not more than five years or fined in the amount set forth in this title, or both.

(b) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(c) If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

(Added Pub. L. 101-194, title IV, § 407(a), Nov. 30, 1989, 103 Stat. 1753; amended Pub. L. 101-280, § 5(f), May 4, 1990, 104 Stat. 159.)

#### PRIOR PROVISIONS

A prior section 216, acts June 25, 1948, ch. 645, 62 Stat. 695, § 216, formerly § 221, amended Aug. 21, 1958, Pub. L. 85-699, title VII, § 702(a)-(c), 72 Stat. 698; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, and renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(d), 76 Stat. 1125, related to receipt or charge of commissions or gifts for farm loan, land bank, or small business transactions, prior to repeal by Pub. L. 98-473, title II, § 1107(b), Oct. 12, 1984, 98 Stat. 2146.

Another prior section 216, act June 25, 1948, ch. 645, 62 Stat. 694, which related to procurement of a contract by an officer or Member of Congress, was repealed by section 1(c) of Pub. L. 87-849.

#### AMENDMENTS

1990—Subsec. (a). Pub. L. 101-280, § 5(f)(1), substituted "section 203, 204, 205, 207, 208, or 209" for "sections 203, 204, 205, 207, 208, and 209".

Subsec. (b). Pub. L. 101-280, § 5(f)(2), substituted "section 203, 204, 205, 207, 208, or 209" for "sections 203, 204, 205, 207, 208, and 209".

**§ 217. Acceptance of consideration for adjustment of farm indebtedness**

Whoever, being an officer or employee of, or person acting for the United States or any agency thereof, accepts any fee, commission, gift, or other consideration in connection with the compromise, adjustment, or cancellation of any farm indebtedness as provided by sections 1150, 1150a, and 1150b of Title 12, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 696, § 217, formerly § 222; renumbered § 217, Pub. L. 87-849, § 1(d), Oct. 23, 1962, 76 Stat. 1125; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

HISTORICAL AND REVISION NOTES

Based on section 1150c(b) of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 20, 1944, ch. 623, § 4(b), 58 Stat. 837).

Words "upon conviction thereof" were omitted as surplusage, since punishment cannot be imposed until after conviction.

Other changes were made in phraseology without change of substance.

PRIOR PROVISIONS

A prior section 217 was renumbered section 212 of this title and subsequently repealed.

AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$1,000".

**§ 218. Voiding transactions in violation of chapter; recovery by the United States**

In addition to any other remedies provided by law the President or, under regulations prescribed by him, the head of any department or agency involved, may declare void and rescind any contract, loan, grant, subsidy, license, right, permit, franchise, use, authority, privilege, benefit, certificate, ruling, decision, opinion, or rate schedule awarded, granted, paid, furnished, or published, or the performance of any service or transfer or delivery of any thing to, by or for any agency of the United States or officer or employee of the United States or person acting on behalf thereof, in relation to which there has been a final conviction for any violation of this chapter, and the United States shall be entitled to recover in addition to any penalty prescribed by law or in a contract the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof.

(Added Pub. L. 87-849, § 1(e), Oct. 23, 1962, 76 Stat. 1125.)

PRIOR PROVISIONS

A prior section 218 was renumbered section 213 of this title and subsequently repealed.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

EX. ORD. NO. 12448, EXERCISE OF AUTHORITY

Ex. Ord. No. 12448, Nov. 4, 1983, 48 F.R. 51281, provided: By the authority vested in me as President by the Constitution and statutes of the United States of

America, including section 218 of title 18 of the United States Code, and in order to provide federal agencies with the authority to promulgate regulations for voiding or rescinding contracts or other benefits obtained through bribery, graft or conflict of interest, it is hereby ordered as follows:

SECTION 1. The head of each Executive department, Military department and Executive agency is hereby delegated the authority vested in the President to declare void and rescind the transactions set forth in section 218 of title 18 of the United States Code in relation to which there has been a final conviction for any violation of chapter 11 of title 18.

SEC. 2. The head of each Executive department and agency described in section 1 may exercise the authority hereby delegated by promulgating implementing regulations; provided that the Secretary of Defense, the Administrator of General Services and the Administration jointly shall issue government-wide implementing regulations related to voiding or rescission of contracts.

SEC. 3. Implementing regulations adopted pursuant to this Order shall, at a minimum, provide the following procedural protections:

(a) Written notice of the proposed action shall be given in each case to the person or entity affected;

(b) The person or entity affected shall be afforded an opportunity to submit pertinent information on its behalf before a final decision is made;

(c) Upon the request of the person or entity affected, a hearing shall be held at which it shall have the opportunity to call witnesses on its behalf and confront any witness the agency may present; and

(d) The head of the agency or his designee shall issue a final written decision specifying the amount of restitution or any other remedy authorized by section 218, provided that such remedy shall take into consideration the fair value of any tangible benefits received and retained by the agency.

RONALD REAGAN.

**§ 219. Officers and employees acting as agents of foreign principals**

(a) Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938 or a lobbyist required to register under the Lobbying Disclosure Act of 1995 in connection with the representation of a foreign entity, as defined in section 3(6) of that Act shall be fined under this title or imprisoned for not more than two years, or both.

(b) Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.

(c) For the purpose of this section "public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof, including the District of Columbia, in any official function, under or by author-