

Subsec. (d)(1). Pub. L. 94-210, §705(b), substituted mandatory for discretionary authority for purchase of properties by the Corporation and provisions relating to negotiations for properties for transfer pursuant to section 716(c)(1)(C) of this title, for provisions relating to negotiations as provided in the final system plan.

ABOLITION OF SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Section 619 of title VI of Pub. L. 94-210 provided that: "Nothing in this title [enacting sections 726 and 745 to 747 of this title and amending sections 702, 711 to 713, 716, 718 to 721, 724, 725, 741, 743, 744, 771, 772, 774, 775, 778, 779, and 791 of this title, and section 856 of former Title 31, Money and Finance] shall affect the application of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to actions of the Commission."

§ 792. Repealed. Pub. L. 97-375, title I, § 111(b), Dec. 21, 1982, 96 Stat. 1821

Section, Pub. L. 93-236, title VI, §602, Jan. 2, 1974, 87 Stat. 1022, provided that as part of his annual report, the Secretary transmit to Congress a comprehensive report on the effectiveness of the Association and the Corporation in implementing the purposes of this chapter, together with any recommendations for additional legislative or other action.

Subsequent to repeal by Pub. L. 97-375, section was repealed and the provisions thereof were reenacted as the last sentence of section 308(a) of Title 49, Transportation, by Pub. L. 97-449, §§1(b), 7(b), Jan. 12, 1983, 96 Stat. 2413, 2443. Section 6(a) of Pub. L. 97-449 provided that: "Sections 1-5 of this act restate, without substantive change, laws enacted before November 15, 1982, that were replaced by those sections. * * * Laws enacted after November 14, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency." Accordingly, the last sentence of section 308(a) of Title 49 was superseded by the repeal made by section 111(b) of Pub. L. 97-375, and was specifically repealed by Pub. L. 98-216, §2(1)(A)(ii), Feb. 14, 1984, 98 Stat. 4.

Pub. L. 97-375, title I, §111(b), Dec. 21, 1982, 96 Stat. 1821, which repealed this section, was itself repealed by Pub. L. 98-216, §6(b), Feb. 14, 1984, 98 Stat. 8.

§ 793. Repealed. Pub. L. 95-473, §4(b), Oct. 17, 1978, 92 Stat. 1466; Pub. L. 97-449, §4(b)(2), Jan. 12, 1983, 96 Stat. 2441, eff. Oct. 17, 1978

Section, Pub. L. 93-236, title VI, §603, Jan. 2, 1974, 87 Stat. 1023, related to freight rates for recyclables.

INVESTIGATION OF DISCRIMINATORY FREIGHT RATES FOR TRANSPORTATION OF RECYCLABLE OR RECYCLED MATERIALS

Pub. L. 94-210, title II, §204, Feb. 5, 1976, 90 Stat. 40, which provided for an investigation by the Interstate Commerce Commission of discriminatory freight rates for transportation of recyclable or recycled materials, was repealed by Pub. L. 95-473, §4(b), Oct. 17, 1978, 92 Stat. 1466.

§ 794. Tax payments to States

(a) Notwithstanding any other provision of law, no railroad in reorganization shall withhold from any State, or any political subdivision thereof, the payment of the portion of any tax owed by such railroad to such State or subdivision, which portion has been collected by such railroad from any tenant thereof.

(b) Any railroad which violates the provisions of subsection (a) of this section by withholding any portion of a tax referred to in such subsection shall be fined not more than \$10,000 for each such violation.

(Pub. L. 93-236, title VI, §605, as added Pub. L. 94-5, §9, Feb. 28, 1975, 89 Stat. 9.)

SUBCHAPTER VII—PROTECTION OF EMPLOYEES

§ 797. Repealed. Pub. L. 99-509, title IV, § 4024(c), Oct. 21, 1986, 100 Stat. 1904

Section, Pub. L. 93-236, title VII, §701, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 661; Pub. L. 99-509, title IV, §4024(a), (b), Oct. 21, 1986, 100 Stat. 1903, related to employee protection agreement.

REPEAL OF SECTION; CONTINUING RESPONSIBILITIES OF CONSOLIDATED RAIL CORPORATION AFTER SALE DATE

Section 4024(c)-(f) of Pub. L. 99-509, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(c) REPEAL OF SECTION 701.—Section 701 of the Regional Rail Reorganization Act of 1973 [45 U.S.C. 797] is repealed effective on the sale date [Apr. 2, 1987, see 45 U.S.C. 702(17A)]. Notwithstanding this repeal—

"(1) any dispute or controversy regarding benefits under section 701 shall be determined under the terms of the law in effect prior to such repeal; and

"(2) the Railroad Retirement Board shall take such actions as may be necessary to complete administration and closeout of the section 701 program and the Board is authorized to receive and apply Corporation funds for this purpose.

"(d) CONTINUING RESPONSIBILITIES.—(1) On and after the sale date, the Corporation shall provide the protection for its employees described in 'Part III, Article III, Employee Protection', of the 'Definitive Agreement of September 17, 1985, By and Between Conrail and the Undersigned Representatives of Conrail's Agreement Employees' and Appendix 3 thereto, together with any amendments thereto, or under any other terms and conditions as shall be agreed between the Corporation and the representatives of its employees.

"(2) The Corporation shall pay, as designated by the Railroad Retirement Board, any remaining benefits under section 701 of the Regional Rail Reorganization Act of 1973 [45 U.S.C. 797] that accrued, but were not disbursed, prior to the sale date.

“(3) The Railroad Retirement Board shall transfer to the Corporation such information regarding administration of the labor protection program under such section 701 as may be reasonably necessary for the Corporation to discharge its responsibilities under this subsection, including copies of the individual claim records of employees of the Corporation.

“(4) The United States shall have no liability for benefits under this subsection.

“(e) COMPENSATION FOR WAGES BELOW INDUSTRY STANDARD.—The Corporation shall pay \$200,000,000 to present and former employees subject to collective bargaining agreements, in accordance with the terms and conditions in the Definitive Agreement referred to in subsection (d)(1), or as otherwise agreed between the parties.

“(f) ESOP TRANSACTIONS.—(1) As soon as practicable after the date of the enactment of this Act [Oct. 21, 1986], the employee stock ownership plan of the Corporation (hereafter in this subsection referred to as the ‘ESOP’) shall be amended to provide that—

“(A) the shares of the ConRail Equity Corporation preferred stock held by the ESOP shall be surrendered by the ESOP in exchange for an equal number of shares of the common stock of the Corporation, and such common stock of the Corporation shall be allocated by the ESOP to the same persons in the same amounts as the shares of ConRail Equity Corporation preferred stock had been allocated; and

“(B) the remaining shares of the ConRail Equity Corporation preferred stock held by the Corporation shall be cancelled, and an equal number of shares of the common stock of the Corporation shall be contributed by the Corporation to the ESOP, which shares shall be allocated by the ESOP to persons who are or were ESOP participants in accordance with the formula set forth in section 2 of Article II of Part III of the Definitive Agreement referred to in subsection (d)(1), and in accordance with a comparable formula for present and former employees of the Corporation not covered by such section of the Definitive Agreement, except that no contribution by the Corporation to the ESOP shall be made which would affect the tax-qualified status of the ESOP, or of any of the employee benefit plans maintained by the Corporation or any affiliate of the Corporation, under the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].

“(2)(A)(i) As soon as practicable after the expiration of 180 days after 100 percent of the United States shares are sold, the ESOP shall distribute all of the stock in the accounts of its participants and beneficiaries, except as provided in clause (ii).

“(ii) Fractional shares shall not be distributed under clause (i). Shares equal to the aggregate amount of fractional shares shall be surrendered by the ESOP and redeemed by the Corporation for cash at the average closing price for the common stock of the Corporation on a national securities exchange for the 10 business days immediately preceding the date of distribution under clause (i), or, if the common stock of the Corporation is not listed on a national securities exchange, at the average closing price for such stock for such 10 business days as appearing in any regularly published reporting or quotation service, and the proceeds of such redemption shall be distributed by the ESOP to the same participants and beneficiaries and in the same amounts as the fractional shares had been allocated.

“(B) After completing the distribution under subparagraph (A), the ESOP shall terminate.

“(3) The Corporation shall distribute any full shares of its common stock which, because of the exception under paragraph (1)(B), could not be contributed to the ESOP to those persons to whom the ESOP would have allocated such shares pursuant to paragraph (1)(B) had such shares been contributed to the ESOP. The Corporation shall pay cash pursuant to the formula set forth in paragraph (2)(A)(ii) in lieu of fractional shares.

“(4) For purposes of Rule 144 promulgated under the Securities Act of 1933 [15 U.S.C. 77a et seq.], each share of the common stock of the Corporation distributed

under this subsection shall be deemed to have been beneficially owned by the recipient, as of the date of such distribution, for a period of 3 years.”

§ 797a. Termination allowance

(a) General

The Corporation may terminate the employment of certain employees, in accordance with this section, upon the payment of an allowance of \$350 for each month of active service with the Corporation or with a railroad in reorganization, but in no event may any such termination allowance exceed \$25,000.

(b) Employment needs

Within 90 days after August 13, 1981, the Corporation shall determine, for each location, the number of employees that the Corporation intends to separate under subsection (a) of this section.

(c) Notification and separation procedure

(1) Within 90 days after August 13, 1981, the Corporation shall notify its employees of their rights and responsibilities under this section.

(2) Within 90 days after August 13, 1981, the Corporation shall notify each train and engine service employee eligible to be separated under paragraph (3) that such employee may be entitled to receive a separation payment under this section if such employee files a written request to be separated. Such notice may be revised from time to time.

(3) If the number of employees who request to be separated pursuant to paragraph (2) of this subsection is greater, in engine service at any location, than the number of excess firemen at the location, and in train service at the location than the number of excess second and third brakemen, as determined by the Corporation, the Corporation shall separate the employees described in paragraph (2) of this subsection in order of seniority beginning with the most senior employee, until the excess firemen and second and third brakemen positions at that location, as determined by the Corporation, have been eliminated.

(d) Designated separations

If the number of employees who are separated pursuant to subsection (c)(3) of this section is less at any location than the number of excess firemen in freight and commuter service and second and third brakemen in freight service at such location, as determined by the Corporation, the Corporation may, after 210 days after August 13, 1981, designate for separation employees in engine service or train service respectively in inverse order of seniority, beginning with the most junior employee in active service at such location until the excess firemen in freight and commuter service and second and third brakemen in freight service, at that location have been eliminated. An employee designated under this subsection may choose (1) to furlough himself voluntarily, in which case the next most junior employee protected under the fireman manning or crew consist agreements or any other agreement or law, in the same craft or class at such location may be separated instead and receive the separation allowance, or (2) to exercise his seniority to another location, in