

take possession is protected under subsection (a) of this section, may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1) of this section."

1984—Subsec. (b). Pub. L. 98-353 inserted a comma after "approval".

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of Title 49, Transportation.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

### § 1169. Effect of rejection of lease of railroad line

(a) Except as provided in subsection (b) of this section, if a lease of a line of railroad under which the debtor is the lessee is rejected under section 365 of this title, and if the trustee, within such time as the court fixes, and with the court's approval, elects not to operate the leased line, the lessor under such lease, after such approval, shall operate the line.

(b) If operation of such line by such lessor is impracticable or contrary to the public interest, the court, on request of such lessor, and after notice and a hearing, shall order the trustee to continue operation of such line for the account of such lessor until abandonment is ordered under section 1170 of this title, or until such operation is otherwise lawfully terminated, whichever occurs first.

(c) During any such operation, such lessor is deemed a carrier subject to the provisions of subtitle IV of title 49 that are applicable to railroads.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2643; Pub. L. 97-449, §5(a)(3), Jan. 12, 1983, 96 Stat. 2442; Pub. L. 98-353, title III, §520, July 10, 1984, 98 Stat. 388.)

#### HISTORICAL AND REVISION NOTES

##### LEGISLATIVE STATEMENTS

Section 1169 of the Senate amendment is deleted from the House amendment as unnecessary since 28 U.S.C. 1407 treating with the judicial panel on multi-district litigation will apply by its terms to cases under title 11.

##### SENATE REPORT NO. 95-989

Section 1177 [enacted as section 1169] continues, essentially without change, the provisions relating to the rejection by the trustee of a lease of a line of railroad now contained in section 77(c)(6) [section 205(c)(6) of former title 11]. Subsection (a) requires the lessor of a line of railroad to operate it if the lease is rejected by the trustee and the trustee, with the approval of the court, elects not to operate the leased line. Subsection (b), however, further provides that if operation by the lessor is impractical or contrary to the public interest, the court shall require the trustee to operate the line for the account of the lessor until the operation is law-

fully terminated. Subsection (c) provides that during such operation, the lessor is a carrier subject to the Interstate Commerce Act [49 U.S.C. 10101 et seq.].

#### HOUSE REPORT NO. 95-595

[Section 1168] This section [enacted as section 1169] governs the effect of the rejection by the trustee of an unexpired lease of railroad line under which the debtor is the lessee. If the trustee rejects such a lease, and if the trustee, within such time as the court allows, and with the approval of the court, elects not to operate the leased line, then the lessor under the lease must operate the line.

Subsection (b) excuses the lessor from the requirement to operate the line under certain circumstances. If operation of the line by the lessor is impracticable or contrary to the public interest, the court, on request of the lessor, must order the trustee to continue operation of the line for the account of the lessor until abandonment is ordered under section 1169, governing abandonments generally, or until the operation is otherwise lawfully terminated, such as by an order of the ICC.

Subsection (c) deems the lessor a carrier subject to the provisions of the Interstate Commerce Act [49 U.S.C. 10101 et seq.] during the operation of the line before abandonment.

#### AMENDMENTS

1984—Subsec. (c). Pub. L. 98-353 directed substitution of "subtitle IV of title 49" for "the Interstate Commerce Act (49 U.S.C. 1 et seq.)", which substitution had previously been made by Pub. L. 97-449.

1983—Subsec. (c). Pub. L. 97-449 substituted "subtitle IV of title 49" for "the Interstate Commerce Act (49 U.S.C. §1 et seq.)".

### § 1170. Abandonment of railroad line

(a) The court, after notice and a hearing, may authorize the abandonment of all or a portion of a railroad line if such abandonment is—

- (1)(A) in the best interest of the estate; or
- (B) essential to the formulation of a plan; and
- (2) consistent with the public interest.

(b) If, except for the pendency of the case under this chapter, such abandonment would require approval by the Board under a law of the United States, the trustee shall initiate an appropriate application for such abandonment with the Board. The court may fix a time within which the Board shall report to the court on such application.

(c) After the court receives the report of the Board, or the expiration of the time fixed under subsection (b) of this section, whichever occurs first, the court may authorize such abandonment, after notice to the Board, the Secretary of Transportation, the trustee, any party in interest that has requested notice, any affected shipper or community, and any other entity prescribed by the court, and a hearing.

(d)(1) Enforcement of an order authorizing such abandonment shall be stayed until the time for taking an appeal has expired, or, if an appeal is timely taken, until such order has become final.

(2) If an order authorizing such abandonment is appealed, the court, on request of a party in interest, may authorize suspension of service on a line or a portion of a line pending the determination of such appeal, after notice to the Board, the Secretary of Transportation, the trustee, any party in interest that has requested