

That the Chief of Engineers is authorized, in his discretion, to negotiate options, make agreements and offers with respect to lands, flowage rights, easements, and rights-of-way involved, as provided by law, at prices deemed reasonable by him.

The United States, irrespective of other provisions of law, may, within the discretion of the Chief of Engineers, acquire flowage easements over all lands not subject to frequent overflow in the Atchafalaya Basin below the latitude of Krotz Springs.

Said Morganza floodway shall not be operated until the Wax Lake outlet has been put into operative condition.

The fuseplug levees at the head of the Atchafalaya Basin on the east side of the Atchafalaya River shall be reconstructed to the 1928 grade and section.

The United States may, in the discretion of the Chief of Engineers, acquire all flowage rights, flowage easements, rights-of-way for levee foundations, and titles in fee simple as herein provided, either by voluntary acquisition or in accordance with the condemnation proceedings by the Secretary of the Army as provided for in section 702d of this title.

In the event the United States acquires or owns title to any lands in fee simple under the provisions of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title, as amended and supplemented, the United States may retain the ownership thereof, or any part thereof instead of turning over such lands to the ownership of States or local interests as provided in section 702d of this title, and may lease such lands: *Provided*, That 25 per centum of all moneys received and deposited in the Treasury of the United States during any fiscal year on account of such leases shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such property is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such property is situated: *Provided further*, That when such property is situated in more than one State or county the distributive share to each from the proceeds of such property shall be proportional to its area therein: *Provided further*, That no part of the appropriations herein or heretofore authorized for said Morganza and Eudora floodways and extension shall be used for any other purpose.

(June 15, 1936, ch. 548 (pt.), as added June 28, 1938, ch. 795, § 4, 52 Stat. 1220; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act June 15, 1936, ch. 548, 49 Stat. 1508, as amended, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, en-

acted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### EFFECT OF AMENDMENT

Act June 28, 1938, provided that, except as amended therein, the act of May 15, 1928, ch. 569, 45 Stat. 534, as amended by the act of June 15, 1936, as amended, should remain in full force and effect. Act May 15, 1928, is classified to sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title.

#### ABANDONMENT AND REPEAL OF PROJECTS

For abandonment of Boeuf Floodway and Eudora Floodway as well as Northward Extension and back protection levee extending from head of Eudora Floodway north to Arkansas River and repeal of provisions relating to prosecution of work, see section 702a-12 of this title.

#### § 702a-12. Modified Lower Mississippi River project as of August 18, 1941

##### (a) Alluvial valley, Mississippi River; Yazoo Basin levees; abandonment of Boeuf and Eudora Floodways and Northward Extension

The existing engineering plan for flood control in the alluvial valley of the Mississippi River is modified so as to provide for the construction of plan 4 as set forth in the report of the Mississippi River Commission, dated March 7, 1941, to the Chief of Engineers, except that the levees in the Yazoo Basin on the east bank of the Mississippi River south of the Coahoma-Bolivar County line in said plan shall have a three foot freeboard over the project flood, and all levees shall be constructed with adequate section and foundation to conform to increased levee heights. The Boeuf Floodway in the project adopted by sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title, and the Eudora Floodway as well as the Northward Extension and the back protection levee extending from the head of the said Eudora Floodway north to the Arkansas River in the project adopted by sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, are abandoned, and the provisions of said sections relating to the prosecution of work on said floodways and extension are repealed; except that the Ouachita River Levees, Louisiana, authorized by section 702a of this title, shall remain as a component of the Mississippi River and Tributaries Project and afforded operation and maintenance responsibilities as provided under section 702c of this title.

##### (b) Yazoo River project

The project for flood control of the Yazoo River shall be as authorized by sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title, except that the Chief of Engineers may, in his discretion, from time to time, substitute therefor combinations of reservoirs, levees, and channel improvements; and except that the extension of the authorized project and improvements contemplated in plan C of the report of March 7, 1941, of the Mississippi River Commission are authorized, including the extension of the levee on the east bank of the Mississippi River generally along the west bank of the Yazoo River to a connection in the vicinity of Yazoo City with the

Yazoo River levee, authorized by the existing project for protection against headwater floods of the Yazoo River system, and the adjustment in the discretion of the Chief of Engineers of the grades of the existing levees in the backwater area on the east bank of Yazoo River below Yazoo City, all at an estimated additional cost of \$11,982,000: *Provided*, That the Chief of Engineers shall fix the grade of the extension levees along the Yazoo River, with higher levees in his discretion, so that their construction will give the maximum practical protection without jeopardizing the safety and integrity of the main Mississippi River levees: *And provided further*, That prior to the beginning of construction local authorities shall furnish satisfactory assurances that they will (1) maintain the levees in accordance with the provisions of section 702c of this title, and will (2) not raise the levees in the backwater above the limiting elevations established therefor by the Chief of Engineers.

**(c) Tensas-Cocodrie backwater area**

In the development of the authorized project, the construction of a levee and improvements contemplated in the report of March 7, 1941, of the Mississippi River Commission from the main-line levee on the west bank of the Mississippi River in the vicinity of Shaw, Louisiana, westward and northward to the vicinity of Newlight, Louisiana, for the protection of that part of the Red River backwater known as the Tensas-Cocodrie area at an estimated cost of \$6,976,000 is authorized: *Provided*, That the Chief of Engineers shall fix the grade of said levee, with a higher levee in his discretion, so that its construction will give the maximum practical protection without jeopardizing the safety and integrity of the main Mississippi River levees: *And provided further*, That prior to the beginning of construction local authorities shall furnish satisfactory assurances that they will (1) maintain the levee in accordance with the provisions of section 702c of this title, and will (2) not raise the said levee above the limiting elevations established therefor by the Chief of Engineers: *Provided further*, That subject to the foregoing conditions of local cooperation the Chief of Engineers may in his discretion substitute other levees and appurtenant works for, or make such modifications of, the levees and improvements herein authorized for the protection of the Tensas-Cocodrie area as may be found after further investigation to afford protection to a larger area in the Red River Backwater at a total cost not to exceed \$29,000,000 and without jeopardizing the safety and integrity of the main Mississippi River levees and without preventing or jeopardizing the diversions contemplated in the adopted project through the Atchafalaya River and Atchafalaya Basin.

**(d) Reimbursement of local authorities for certain expenses**

The Chief of Engineers, with approval of the Secretary of the Army, shall reimburse local authorities for actual expenditures found by the Chief of Engineers to be reasonable, for providing at the request of the United States, in accordance with local legal procedure or custom, rights-of-way and flowage easements required for future setbacks of main-line Mississippi River levees.

**(e) Saint Francis River**

The existing engineering plan for flood control of the Saint Francis River is modified so as to permit the substitution for the suspended portions of the original project below Oak Donnicks, Arkansas, of the construction of a ditch in Cross County, Arkansas, beginning in the vicinity of the outlet end of the existing Oak Donnicks to Saint Francis Bay floodway and terminating in Saint Francis Bay about two miles north of Riverfront, including the construction of a highway bridge at State Highway Numbered 42 made necessary by the ditch construction: *Provided*, That local interests give assurances satisfactory to the Secretary of the Army that they will (1) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction; (2) hold and save the United States free from damages due to the construction works; and (3) maintain the works after completion in accordance with regulations prescribed by the Secretary of the Army.

**(f) Bayou Rapides, Boeuf, and Cocodrie, Louisiana, improvements**

In the development of the authorized project, the construction of improvements for Bayou Rapides, Boeuf, and Cocodrie, Louisiana, contemplated in the report dated March 24, 1941, of the Special Board of Officers at an estimated cost of \$2,600,000 is authorized.

**(g) Increased authorizations for alluvial valley, Mississippi River**

The total authorizations heretofore made for the flood control project of the alluvial valley of the Mississippi River shall not be increased by reason of any provision in this Act, except for the additional amounts necessary for the Yazoo and Red River backwater improvements, and any appropriations heretofore or hereafter made or authorized for said project as herein or heretofore modified may be expended upon any feature of the said project, notwithstanding any restrictions, limitations, or requirements of existing law: *Provided*, That funds hereafter expended for maintenance shall not be considered as reducing present remaining balances of authorizations.

(June 15, 1936, ch. 548 (pt.), as added Aug. 18, 1941, ch. 377, § 3, 55 Stat. 642; amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; May 17, 1950, ch. 188, title II, § 204(a), 64 Stat. 172; Pub. L. 110-114, title III, § 3013(b), Nov. 8, 2007, 121 Stat. 1109.)

REFERENCES IN TEXT

Herein, referred to in subsecs. (c) and (g), and this Act, referred to in subsec. (g), probably mean act June 15, 1936, ch. 548, 49 Stat. 1508, as amended, which enacted sections 642a, 702a-1, 702a-2 to 702a-12, 702g-1, 702j-1, 702j-2, 702k-1, and 702k-2 of this title. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010

to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

#### AMENDMENTS

2007—Subsec. (a). Pub. L. 110-114, in last sentence, inserted “; except that the Ouachita River Levees, Louisiana, authorized by section 702a of this title, shall remain as a component of the Mississippi River and Tributaries Project and afforded operation and maintenance responsibilities as provided under section 702c of this title” before period at end.

1950—Subsec. (c). Act May 17, 1950, substituted “\$29,000,000” for “\$14,000,000”.

#### APPLICATION OF 1950 INCREASE IN AUTHORIZATION CONTAINED IN SUBSEC. (c) TO OLD AND ATCHAFALAYA RIVERS PROJECT

Section 203 of act Sept. 3, 1954, ch. 1264, title II, 68 Stat. 1258, in addition to authorizing an amount of \$32,000,000 for control of the Old and Atchafalaya Rivers and a lock for navigation, provided in part that the \$15,000,000 increase in authorization by act May 17, 1950 in amending subsec. (c) of this section (see 1950 Amendment note above), should be applied to such project.

#### § 702b. Local contribution toward cost of flood control work

It is declared to be the sense of Congress that the principle of local contribution toward the cost of flood control work, which has been incorporated in all previous national legislation on the subject, is sound, as recognizing the special interest of the local population in its own protection, and as a means of preventing inordinate requests for unjustified items of work having no material national interest. As a full compliance with this principle in view of the great expenditure estimated at approximately \$292,000,000, prior to May 15, 1928, made by the local interests in the alluvial valley of the Mississippi River for protection against the floods of that river; in view of the extent of national concern in the control of these floods in the interests of national prosperity, the flow of interstate commerce, and the movement of the United States mails; and, in view of the gigantic scale of the project, involving flood waters of a volume and flowing from a drainage area largely outside the States most affected, and far exceeding those of any other river in the United States, no local contribution to the project herein adopted is required.

(May 15, 1928, ch. 569, § 2, 45 Stat. 535.)

#### REFERENCES IN TEXT

Herein, referred to in text, means act May 15, 1928, ch. 569, 45 Stat. 534, as amended, which enacted sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title. For complete classification of this Act to the Code, see Tables.

#### § 702c. Expenditures for construction work; conditions precedent; liability for damage from flood waters; condemnation proceedings; floodage rights

Except when authorized by the Secretary of the Army upon the recommendation of the Chief of Engineers, no money appropriated under authority of sections 702a and 702g of this title shall be expended on the construction of any item of the project until the States or levee districts have given assurances satisfactory to the Secretary of the Army that they will (a) main-

tain all flood-control works after their completion, except controlling and regulating spillway structures, including special relief levees; maintenance includes normally such matters as cutting grass, removal of weeds, local drainage, and minor repairs of main river levees; (b) agree to accept land turned over to them under the provisions of section 702d of this title; (c) provide without cost to the United States, all rights-of-way for levee foundations and levees on the main stem of the Mississippi River between Cape Girardeau, Missouri, and the Head of Passes.

No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place: *Provided, however,* That if in carrying out the purposes of sections 702a, 702b to 702d, 702e to 702g, 702h, 702i, 702j, 702k, 702l, 702m, and 704 of this title it shall be found that upon any stretch of the banks of the Mississippi River it is impracticable to construct levees, either because such construction is not economically justified or because such construction would unreasonably restrict the flood channel, and lands in such stretch of the river are subjected to overflow and damage which are not now overflowed or damaged by reason of the construction of levees on the opposite banks of the river it shall be the duty of the Secretary of the Army and the Chief of Engineers to institute proceedings on behalf of the United States Government to acquire either the absolute ownership of the lands so subjected to overflow and damage or floodage rights over such lands.

(May 15, 1928, ch. 569, § 3, 45 Stat. 535; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

#### CHANGE OF NAME

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#### § 702d. Flowage rights; condemnation proceedings; benefits to property

The United States shall provide flowage rights for additional destructive flood waters that will pass by reason of diversions from the main channel of the Mississippi River: *Provided,* That in all cases where the execution of the flood control plan herein adopted results in benefits to property such benefits shall be taken into consideration by way of reducing the amount of compensation to be paid.

The Secretary of the Army may cause proceedings to be instituted for the acquirement by condemnation of any lands, easements, or rights of way which, in the opinion of the Secretary of the Army and the Chief of Engineers, are needed in carrying out this project, the said proceedings to be instituted in the United States district court for the district in which the land, easement, or right of way is located. In all such proceedings the practice, pleadings, forms, and modes of proceedings shall conform as near as may be to the practice, pleadings, forms, and