

first section of which enacted Title 31, Money and Finance.

#### AMENDMENTS

1980—Subsec. (e). Pub. L. 96-448 inserted “or under subsection (a) of section 746 of this title” after “subsection (c) of this section”.

1976—Subsec. (b). Pub. L. 94-555 inserted “(exclusive of interest or additions to principal on account of accrual of interest)” after “aggregate principal amount”, and raised maximum amount allowed for outstanding obligations issued by Association to \$395,000,000.

Pub. L. 94-210, § 604, substituted provisions authorizing \$275,000,000 as maximum of aggregate amount of obligations outstanding at any one time and provisions relating to availability or issuance after Feb. 5, 1976, for provisions authorizing \$1,500,000,000 as maximum of aggregate amount of obligations outstanding at any one time and provisions relating to limitations on amounts issued to Corporation and available for rehabilitation and modernization of rail properties.

Subsec. (c). Pub. L. 94-210, § 607(k), inserted provisions relating to guarantees as general obligations of the United States and pledge of full faith and credit for payment.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

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

See section 1341 of this title.

#### APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Application of National Environmental Policy Act to actions of Commission not affected by title VI of Pub. L. 94-210, see section 619 of Pub. L. 94-210, set out as a note under section 791 of this title.

### § 721. Loans

#### (a) General

The Association is authorized, in accordance with the provisions of this section and such rules and regulations as it shall prescribe, to make loans to the Corporation, the National Railroad Passenger Corporation, and other railroads (including a railroad in reorganization which has been found to be reorganizable under section 77 of the Bankruptcy Act pursuant to section 717(b) of this title) in the region, for purposes of achieving the goals of this chapter; to a State or local or regional transportation authority pursuant to section 763<sup>1</sup> of this title; and to provide assistance in the form of loans to any railroad which (A) connects with a railroad in reorganization, and (B) is in need of financial assistance to avoid reorganization proceedings under section 77 of the Bankruptcy Act. No such loan shall be made by the Association to a railroad unless such loans shall, where applicable, be treated as an expense of administration. The rights referred to in the last sentence of section

77(j) of the Bankruptcy Act shall in no way be affected by this chapter.

#### (b) Applications

Each application for such a loan shall be made in writing to the Association in such form and with such content and other submissions as the Association shall prescribe to protect reasonably the interests of the United States. The Association shall publish a notice of the receipt of each such application in the Federal Register and shall afford interested persons an opportunity to comment thereon.

#### (c) Terms and conditions

Each loan shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Association deems appropriate. Such loan shall bear interest at a rate not less than the greater of a rate determined by the Secretary of the Treasury taking into consideration (1) the rate prevailing in the private market for similar loans as determined by the Secretary of the Treasury, or (2) the current average yield on outstanding marketable obligations of the Association with remaining periods of maturity comparable to the average maturities of such loans, plus such additional charge, if any, toward covering costs of the Association as the Association may determine to be consistent with the purposes of this chapter.

#### (d) Modifications

The Association is authorized to approve any modification of any provision of a loan under this section, including the rate of interest, time of payment of interest or principal, security, or any other term or condition, upon agreement of the recipient of the loan and upon a finding by the Association that such modification is equitable and necessary or appropriate to achieve the policy declared in subsection (f) of this section. Notwithstanding any other provision of this section, in the case of a loan made under subsection (a) of this section to a railroad in the region, the Association is not required to make the findings with respect to subsections (e)(3) and (f) of this section and may, upon the request of such railroad—

(1) continue to make advances to such railroad pursuant to such loan, up to the total principal provided, as of November 8, 1978, under the agreement between such railroad and the Association under this section, upon finding only that (A) a good faith effort has been commenced by such railroad toward the establishment of an employee stock ownership plan, and (B) such continued advances will permit the continuation of rail service determined by the Association, in the Final System Plan or under the goals of this chapter, to be desirable; and

(2) increase the principal amount of such loan to such railroad, in an amount not to exceed \$7,500,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association. Any such approval shall be conditioned upon a written commitment that by December 31, 1980, the

<sup>1</sup> See References in Text note below.

railroad will adopt an employee stock ownership plan which will acquire qualifying employer securities with a fair market value of \$250,000.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1981.

**(e) Prerequisites**

The Association shall make a finding in writing, before making a loan to any applicant under this section, that—

(1) the loan is necessary to achieve the goals of this chapter or to prevent insolvency;

(2) it is satisfied that the business affairs of the applicant will be conducted in a reasonable and prudent manner; and

(3) the applicant has offered such security as the Association deems necessary to protect reasonably the interests of the United States.

**(f) Policy**

It is the intent of Congress that loans made under this section shall be made on terms and conditions which furnish reasonable assurance that the Corporation or the railroads to which such loans are granted will be able to repay them within the time fixed and that the goals of this chapter are reasonably likely to be achieved.

**(g) Pre-conveyance loans to Corporation**

During the period between the effective date of the final system plan and the date of the conveyance of rail properties pursuant to section 743(b) of this title, the Association may make such loans in such amounts to the Corporation as the Association deems essential to provide for the purchase by the Corporation of material, supplies, equipment, and services necessary to permit the orderly and efficient implementation of the final system plan. Notwithstanding any inability of the Association during such period to make the finding required by subsection (e)(3) of this section because of any existing contingencies, the Association may make any such loans to the Corporation, subject to—

(1) the most favorable terms and conditions for assuring timely repayment and security as may then be reasonably available, and

(2) the requirement that any loan to the Corporation under this subsection be refinanced immediately out of the proceeds of the first sale by the issuance of debentures under section 726 of this title.

In order to assure that necessary funds are available to the Corporation for implementation of the final system plan, the Corporation is authorized to accept such loans as may be approved by the Association under this subsection, and any such acceptance shall be deemed for all purposes to constitute a reasonable and prudent business judgment in compliance with any fiduciary obligations imposed on the Corporation or its directors. For purposes of this subsection, the term "Corporation" includes a subsidiary of the Corporation.

**(h) Loans for payment of obligations**

(1)(A) The Association is authorized, subject to the limitations set forth in section 720(b) of

this title, to enter into loan agreements, in amounts not to exceed, at any given time, \$350,000,000 in the aggregate principal amount, with the Corporation, the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 743(b)(1) of this title, under which the Corporation, the National Railroad Passenger Corporation, and any profitable railroad entering into such agreement will agree to meet existing or prospective obligations of the railroads in reorganization in the region which the Association, in accordance with procedures established by the Association, determines should be paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, on behalf of such railroads in reorganization, in order to avoid disruptions in ordinary business relationships. Such obligations shall be limited to—

(i) amounts claimed by suppliers (including private car lines) of materials or services utilized or purchased in current rail operations;

(ii) claims by shippers arising from current rail services;

(iii) payments to railroads for settlement of current interline accounts and all other current accounts and obligations;

(iv) claims of employees arising under the collective-bargaining agreements of the railroads in reorganization in the region and subject to section 153 of this title (including claims for accrued vacation and wages and similar claims arising in connection with labor and services performed);

(v) claims of all employees or their personal representatives for personal injuries or death and subject to the provisions of Employers' Liability Act (45 U.S.C. 51-60);

(vi) amounts required for adequate funding of accrued pension benefits existing at the time of a conveyance or discontinuance of service under employee pension benefit plans described in section 775(a)<sup>2</sup> of this title;

(vii) amounts required to provide adequate funding for payment, when due, of claims deriving from membership in any employee voluntary relief plan which provides benefits to its members and their beneficiaries in the event of sickness, accident, disability, or death, and to which both a railroad in reorganization and employee members have made contributions;

(viii) amounts required to provide adequate funding for continuation, by the Corporation, of medical and life insurance coverage and benefits for retired employees of railroads in reorganization as required and limited by section 743(b)(6)(B) of this title.<sup>3</sup>

(ix) amounts required to discharge the obligations of each such railroad in reorganization to nonemployee claimants for personal injuries suffered during the period such railroad has been in reorganization; and

(x) amounts required to discharge any obligation of a railroad in reorganization in the region to the National Railroad Passenger Corporation, arising out of a contract between

<sup>2</sup> See References in Text note below.

<sup>3</sup> So in original. The period probably should be a semicolon.

such railroad in reorganization and such Corporation under which such railroad in reorganization is required to provide a suitable rail passenger station, in any case in which such railroad in reorganization sold a rail passenger station pursuant to a judicial order of condemnation prior to April 1, 1976.

(B) The Association shall make a loan pursuant to subparagraph (A) of this paragraph if, notwithstanding any other requirement of this subsection, it finds that the Corporation,<sup>4</sup> the National Railroad Passenger Corporation, or a profitable railroad is entitled to a loan pursuant to section 743(b)(6), 774(e), or 774(g)<sup>2</sup> of this title, or if, with respect to an obligation referred to in subparagraph (A) of this paragraph, it finds that—

(i) provision for the payment of such obligation was not included in the financial projections of the final system plan;

(ii) such obligation arose from rail operations prior to the date of conveyance of rail properties pursuant to section 743(b)(1) of this title and is, under other applicable law, the responsibility of a railroad in reorganization in the region, and a claim is presented to a railroad in reorganization in the region, or the Corporation within 2 years after October 19, 1976;

(iii) the Corporation, the National Railroad Passenger Corporation, or a profitable railroad has advised the Association that the direct payment of such obligation by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad is for services or materials, the furnishing of which served to avoid disruptions in ordinary business relationships prior to the date of conveyance of rail properties pursuant to section 743(b)(1) of this title, or is necessary to avoid postconveyance disruptions in ordinary business relationships;

(iv) the transferor is unable to pay such obligation within a reasonable period of time; and

(v) with respect to loans made to the Corporation, the procedures to be followed by the Corporation, in seeking reimbursement from a railroad in reorganization in the region for an obligation paid on its behalf under this subsection, have been jointly agreed to by the Finance Committee and the Corporation, and the joint agreement—

(I) provides for the Corporation to receive reimbursement from the Association for any expenses incurred in seeking reimbursement from any railroad in reorganization in the region for an obligation paid on its behalf under this subsection; and

(II) includes a stipulation of the exact procedures the Corporation shall undertake to avoid the finding, referred to in paragraph (6)(A)(i) of this subsection, that it has not exercised due diligence.

(2) The trustees of each railroad in reorganization in the region shall attempt to negotiate agency agreements with the Corporation, the National Railroad Passenger Corporation, or a profitable railroad for the processing of all ac-

counts receivable and accounts payable attributable to operations prior to the conveyance of property pursuant to section 743(b)(1) of this title and for the payment of only those accounts payable which relate to obligations of the estates identified in paragraph (1) of this subsection. If any railroad in reorganization in the region fails to conclude such an agreement within a reasonable time prior to such conveyance, the applicable reorganization courts, after giving all parties an opportunity to be heard, shall prescribe the terms of such an agency arrangement by order, giving due consideration to the need, wherever possible, to make such agreements uniform among the various estates. Nothing in this subsection shall be construed as permitting any district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region to enjoin, restrain, or limit the Corporation, the National Railroad Passenger Corporation, or a profitable railroad from applying, to payment of the obligations of the estates identified in paragraph (1) of this subsection, amounts collected as (A) accounts receivable pursuant to this paragraph, (B) cash or other current assets identified pursuant to paragraph (3) of this subsection, or (C) proceeds of loans pursuant to paragraph (1) of this subsection. Any agency agreement executed prior to October 19, 1976, shall be deemed amended to the extent necessary to conform such agreement or order to the provisions of this paragraph. Nothing in this paragraph shall be construed to affect any payment made prior to October 19, 1976, with respect to obligations other than those identified in paragraph (1) of this subsection.

(3) The Association may, not less than 30 days prior to the date of conveyance pursuant to section 743(b)(1) of this title, petition each district court of the United States having jurisdiction over the reorganization of a railroad in reorganization in the region for an order, which shall be entered prior to such conveyance, and which—

(A) identifies that cash and other current assets of the estate of such railroad which shall be utilized to satisfy obligations of the estates identified in paragraph (1) of this subsection; and

(B) provides for the application by the trustees of such railroads and their agents, consistent with the principles of reorganization under section 77 of the Bankruptcy Act and with the agency agreement specified in paragraph (2) of this subsection, of all such current assets, including cash available as of or subsequent to such date of conveyance, to the payment in the postconveyance period of the obligations of the estates identified in paragraph (1) of this subsection.

(4)(A) Each obligation of a railroad in reorganization in the region which is paid with financial assistance under paragraph (1) of this subsection shall be processed, on behalf of such railroad, by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate. An obligation of a railroad in reorganization in the region shall be paid, on behalf of such railroad, by the Corporation, the National Railroad Passenger Corpora-

<sup>4</sup> So in original. Should be "Corporation,".

tion, or a profitable railroad, whichever is appropriate, if—

(i) such obligation is deemed by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, whichever is appropriate, to have been, on the date of conveyance of rail properties pursuant to section 743(b)(1) of this title, the obligation of a railroad in reorganization in the region;

(ii) such obligation accrues after such date of conveyance but as a result of rail operations conducted prior to such date, and the trustees of such railroad in reorganization acknowledge that it is an obligation of such railroad; or

(iii) the district court of the United States having jurisdiction over such railroad in reorganization in the region approves such obligation as a valid administrative claim against such railroad;

to the extent that payment is required under a loan agreement with the Association under such paragraph (1).

(B) The Association shall resolve any disputes among the Corporation, the National Railroad Passenger Corporation, and a profitable railroad concerning which of them shall process and pay any particular obligation on behalf of a particular railroad in reorganization.

(C) The Corporation, the National Railroad Passenger Corporation, or a profitable railroad shall have a direct claim, as a current expense of administration, for reimbursement from the estate of a railroad in reorganization in the region for all obligations of such estate (plus interest thereon) which are paid by the Corporation, the National Railroad Passenger Corporation, or a profitable railroad, as the case may be. The right of the Corporation or the National Railroad Passenger Corporation to receive reimbursement under this subparagraph from the estate of a railroad in reorganization in the region shall be reduced by the amount, if any, of loans, plus interest forgiven under paragraph (5) of this subsection.

(D)(i) Except as provided in clause (ii) of this subparagraph, any funds held in an escrow account by a railroad in reorganization on October 19, 1976, which are thereafter determined to be cash and other current assets of the estate of such railroad in reorganization, for purposes of paragraph (3) of this subsection, shall be applied as follows—

(I) first, to the reduction of any outstanding loans to the Corporation by the Association, pursuant to paragraph (1) of this subsection, the proceeds of which were used to discharge obligations of such railroad in reorganization;

(II) second, to the Association to the extent of any such loans which have been forgiven pursuant to paragraph (5) of this subsection; and

(III) third, to the payment of any remaining obligations of such railroad in reorganization, in accordance with the provision of the agency agreement entered into pursuant to paragraph (2) of this subsection.

(ii) The manner of disposition set forth in clause (i) of this subparagraph shall not apply with respect to a railroad in reorganization if

the Secretary (I) determines that a different disposition of assets is necessary to carry out a reorganization plan of such railroad in reorganization, and that such different disposition adequately protects the interests of the United States, and (II) transmits his determination to the court having jurisdiction over the reorganization of such railroad.

(5)(A) If, at any time, the Finance Committee of the Association determines that the failure of the Corporation to receive full reimbursement with interest from the estate of a railroad in reorganization in the region for any obligation of such estate paid pursuant to this subsection could adversely affect the fairness and equity of the transfers and conveyances pursuant to section 743(b)(1) of this title, or that the failure of the National Railroad Passenger Corporation to receive such full reimbursement plus interest for any such obligation would be contrary to the public interest, the Association shall forgive the indebtedness, plus accrued interest, of the Corporation or of the National Railroad Passenger Corporation incurred pursuant to paragraph (1) of this subsection in the amount recommended by the Finance Committee. The Association shall have a direct claim, as a current expense of administration of the estate of such railroad in reorganization, equal to the amount by which loans of the Corporation or of the National Railroad Passenger Corporation, plus interest, have been forgiven. Such direct claim shall not be subject to any reduction by way of setoff, cross-claim, or counter-claim which the estate of such railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.

(B) The direct claim of the Association under this paragraph, and any direct claim authorized under paragraph (4) of this subsection, shall be prior to all other administrative claims of the estate of a railroad in reorganization, except claims arising under trustee's certificates or from default on the payment of such certificates. The Corporation, the National Railroad Passenger Corporation, or a profitable railroad, as the case may be, shall, with respect to each direct claim for reimbursement pursuant to paragraph (4) of this subsection, file a proof of administrative expense claim with the trustees of the railroad in reorganization from whom reimbursement is sought. Each such proof of administrative expense claim shall set forth, by category and amount, the obligations of such railroad in reorganization which were paid pursuant to such paragraph (4).

(6)(A) Notwithstanding any other provision of this subsection, the Association shall forgive any loan made to the Corporation or the National Railroad Passenger Corporation pursuant to this subsection, plus accrued interest thereon, on the 3rd anniversary date of any such loan, except that the Association shall not forgive any loan or portion thereof, in accordance with this paragraph, if—

(i) the Finance Committee makes an affirmative finding, with respect to such loan or portion thereof, that—

(I) the Corporation has not exercised due diligence in executing the procedures adopt-

ed pursuant to paragraph (1)(B)(v) of this subsection, and

(II) the failure of the Association to forgive such loan or portion thereof will not adversely affect the ability of the Corporation to become financially self-sustaining;

(ii) the Finance Committee so directs the Association; and

(iii) neither House of the Congress disapproves such affirmative finding and direction, in accordance with the following provisions of this paragraph.

A copy of each such finding, the reasons therefor, and such direction made by the Finance Committee, together with the comments and recommendations thereon of the Board of Directors of the Association, shall be transmitted to the Congress by the Association within 10 days after the date on which the Finance Committee makes such finding and direction, or if not so transmitted, shall be transmitted by the Finance Committee. Each such finding and direction so transmitted shall become effective immediately, and shall remain in effect, unless, within the first period of 30 calendar days of continuous session of Congress after the date of transmittal of such finding and direction to Congress, either House of Congress disapproves such finding and direction in accordance with the procedures specified in section 688 of title 2. For purposes of this paragraph, continuity of session of Congress is broken only in the circumstances described in section 682(5) of title 2.

(B) The Association shall have a direct claim, as a current expense of administration of the estate of the railroad in reorganization whose obligations were paid with the proceeds of loans forgiven under this paragraph, equal to the amount by which the loans, plus interest, have been forgiven. Such direct claim shall not be subject to any reduction by way of setoff, cross-claim, or counterclaim which the estate of such railroad in reorganization may be entitled to assert against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States. The direct claim of the Association under this paragraph shall be prior to all other administrative claims of the estate of the railroad in reorganization, except claims arising under trustee's certificates or from default on the payment of such certificates.

(7) For purposes of this subsection, the term "Corporation" includes a subsidiary of the Corporation.

(Pub. L. 93-236, title II, §211, Jan. 2, 1974, 87 Stat. 1001; Pub. L. 94-5, §5, Feb. 28, 1975, 89 Stat. 8; Pub. L. 94-210, title VI, §606, Feb. 5, 1976, 90 Stat. 92; Pub. L. 94-555, title II, §§203(a)-(d), 220(a), Oct. 19, 1976, 90 Stat. 2617, 2619, 2620, 2629; Pub. L. 95-611, §3(a), Nov. 8, 1978, 92 Stat. 3089; Pub. L. 96-73, title II, §204(b), Sept. 29, 1979, 93 Stat. 556; Pub. L. 96-101, §23, Nov. 4, 1979, 93 Stat. 746; Pub. L. 96-448, title IV, §§407, 408, Oct. 14, 1980, 94 Stat. 1948; Pub. L. 105-178, title VII, §7203(b)(3), June 9, 1998, 112 Stat. 477.)

#### REFERENCES IN TEXT

Section 77 of the Bankruptcy Act, referred to in subsecs. (a) and (h)(3)(B), was classified to section 205 of former Title 11, Bankruptcy. The Bankruptcy Act (act

July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§1161 et seq.) of chapter 11 of Title 11.

Section 763 of this title, referred to in subsec. (a), was repealed by Pub. L. 94-210, title VIII, §806, Feb. 5, 1976, 90 Stat. 143, eff. Apr. 1, 1978.

The Employers' Liability Act (45 U.S.C. 51-60), referred to in subsec. (h)(1)(A)(v), is act Apr. 22, 1908, ch. 149, 35 Stat. 65, as amended, and is classified generally to chapter 2 (§51 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 51 of this title and Tables.

Sections 774 and 775 of this title, referred to in subsec. (h)(1)(A)(vi), (B), were repealed by Pub. L. 97-35, title XI, §1144(a)(1), Aug. 13, 1981, 95 Stat. 669.

#### CODIFICATION

In the closing par. of subsec. (h)(6)(A), "section 688 of title 2" and "section 682(5) of title 2" substituted for "section 1017 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1407)" and "section 1011(5) of that Act (31 U.S.C. 1401(5))", respectively, to reflect the transfer of sections 1407 and 1401 of former Title 31, Money and Finance, to sections 688 and 682 of Title 2, the Congress.

#### AMENDMENTS

1998—Subsec. (i). Pub. L. 105-178 struck out heading and text of subsec. (i). Text read as follows: "Upon application by the Corporation or any other railroad, the Secretary shall, pursuant to the provisions of and within the obligational limitations contained in sections 831 through 833 of this title, guarantee obligations of the Corporation or such railroad for the purpose of electrifying high-density mainline routes if the Secretary finds that such electrification will return operating and financial benefits to the Corporation or such railroad and will facilitate compatibility with existing or renewed electrification systems. Upon application by the Corporation or by any railroad in reorganization in the region which receives a loan under subsection (a) of this section, the Secretary shall, pursuant to the provisions of and within the obligational limitations contained in sections 831 through 833 of this title, guarantee obligations of the Corporation or such railroad for purposes of making capital improvements to coal export facilities. The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary under this paragraph shall not exceed \$200,000,000 at any one time."

1980—Subsec. (d). Pub. L. 96-448, §408, substituted "Association is not required to make the findings with respect to subsections (e)(3) and (f) of this section and may" for "Association may" in provision preceding par. (1), "\$7,500,000" for "\$4,000,000" in par. (2), and "December 31, 1981" for "December 31, 1980" in provision following par. (2).

Subsec. (i). Pub. L. 96-448, §407, substituted "Corporation or any other railroad, the Secretary" for "Corporation, the Secretary", "Corporation or such railroad for the purpose" for "Corporation for the purpose", and "Corporation or such railroad and will facilitate" for "Corporation and will facilitate" and inserted provision authorizing the Secretary, upon application and with regard to obligational limitations, to guarantee obligations of the Corporation or such railroad for the purposes of making capital improvements to coal export facilities.

1979—Subsec. (d)(2). Pub. L. 96-101 substituted "\$4,000,000" for "\$2,000,000", "and determines that such railroad is making a good faith effort to establish an employee stock ownership plan for review and approval by the Association" for "and such railroad has in effect an employee stock ownership plan which has been approved by the Association", and "December 31, 1980" for "December 31, 1979" and inserted provision requir-

ing that any such approval be conditioned upon a written commitment that by December 31, 1980, the railroad will adopt an employee stock ownership plan which will acquire qualifying employer securities with a fair market value of \$250,000.

Subsec. (h)(1)(A)(viii). Pub. L. 96-73, §204(b)(1), substituted "funding for continuation, by the Corporation, of medical and life insurance coverage and benefits for retired employees of railroads in reorganization as required and limited by section 743(b)(6)(B) of this title" for "funding for payment, when due, of medical and life insurance benefits for employees (whether or not their employment was governed by a collective bargaining agreement) on account of their service with a railroad in reorganization prior to the date of conveyance pursuant to section 743(b)(1) of this title, and for individuals who retired, prior to such date of conveyance, from service with a railroad in reorganization".

Subsec. (h)(6). Pub. L. 96-73, §204(b)(2)(A)-(C), redesignated existing provisions as subpar. (A), and in subpar. (A) as so redesignated, redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, and former cls. (i) and (ii) of former subpar. (A) as subcls. (I) and (II) of cl. (i), respectively, and added subpar. (B).

1978—Subsec. (d). Pub. L. 95-611 inserted provision authorizing increase of loans to railroads until Dec. 31, 1979.

1976—Subsec. (g). Pub. L. 94-210 added subsec. (g).

Subsec. (h). Pub. L. 94-210 added subsec. (h).

Subsec. (h)(1). Pub. L. 94-555, §203(a), increased aggregate principal amount of loan agreements, at any given time, to \$350,000,000; substituted "such railroads in reorganization" for "the transferors" after "railroad, in behalf of"; struck out "and obligations" after "all other current accounts"; inserted "(including claims for accrued vacation and wages and similar claims arising in connection with labor and services performed)" after "section 153 of this title"; added clauses (vii) to (x) to subpar. (A); authorized Association to make loans pursuant to subpar. (A), as amended, and inserted reference to section 743(b)(6) of this title; inserted provisions that claim arising prior to conveyance of rail properties must be presented to a railroad in reorganization in the region, or the Corporation within 2 years after Oct. 19, 1976, and that loan requested is for direct payment made for services or materials, the furnishing of which avoided disruption of ordinary business relationships prior to date of conveyance or made to avoid postconveyance disruptions; and added subcls. (I) and (II) to cl. (V) relating to provisions to be included in joint agreement between Finance Committee and the Corporation.

Subsec. (h)(2). Pub. L. 94-555, §203(b), inserted "and for the payment of only those accounts payable which relate to the obligations of the estates identified in paragraph (1) of this subsection" after "section 743(b)(1) of this title", and inserted provisions relating to the jurisdiction of district courts in railroad reorganization proceedings.

Subsec. (h)(4)(D). Pub. L. 94-555, §203(c), added subpar. (D).

Subsec. (h)(5)(B). Pub. L. 94-555, §203(d), inserted provisions relating to filing proof of claim for administrative expense.

Subsec. (h)(6)(A)(i). Pub. L. 94-555, §220(a), substituted "paragraph (1)(B)(v)" for "paragraph (1)(E)".

Subsec. (i). Pub. L. 94-210 added subsec. (i).

1975—Subsec. (a). Pub. L. 94-5, §5(a), substituted "for purposes of achieving the goals of this chapter" for "for purposes of assisting in the implementation of the final system plan".

Subsec. (e)(1). Pub. L. 94-5, §5(b), substituted "achieve the goals of this chapter" for "carry out the final system plan".

Subsec. (f). Pub. L. 94-5, §5(c), substituted "goals of this chapter" for "goals of the final system plan".

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-73 effective Nov. 4, 1978, see section 501(b) of Pub. L. 96-73, set out as a note under section 743 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-555 effective Oct. 1, 1976, see section 303 of Pub. L. 94-555, set out as a note under section 702 of this title.

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

See section 1341 of this title.

#### APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Application of National Environmental Policy Act to actions of Commission not affected by title VI of Pub. L. 94-210, see section 619 of Pub. L. 94-210, set out as a note under section 791 of this title.

## § 722. Records, audit, and examination

### (a) Records

Each recipient of financial assistance under this subchapter, whether in the form of loans, obligations, or other arrangements, shall keep such records as the Association or the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance and such other records as will facilitate an effective audit.

### (b) Audit and examination

The Association, the Secretary, and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after the implementation of the final system plan, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Association, the Secretary, or the Comptroller General may be related or pertinent to the loans, obligations or other arrangements referred to in subsection (a) of this section. The Association or any of its duly authorized representatives shall, until any financial assistance received under this subchapter has been repaid to the Association, have access to any such materials which concern any matter that may bear upon—

(1) the ability of the recipient of such financial assistance to make repayment within the time fixed therefor;

(2) the effectiveness with which the proceeds of such assistance is used; and

(3) the implementation of the final system plan and the realization of the declaration of policy of this chapter.

(Pub. L. 93-236, title II, §212, Jan. 2, 1974, 87 Stat. 1002.)

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

See section 1341 of this title.

## § 723. Emergency assistance pending implementation

### (a) Emergency assistance

The Secretary is authorized, pending the implementation of the final system plan, to pay to