

(Pub. L. 104-127, title III, §354, Apr. 4, 1996, 110 Stat. 1011.)

#### § 5804. Officers and employees

##### (a) In general

The Board may—

(1) appoint, hire, and discharge the officers and employees of the Foundation, other than appoint the initial Executive Director of the Foundation;

(2) adopt a constitution and bylaws for the Foundation that are consistent with the purposes of this chapter; and

(3) undertake any other activities that may be necessary to carry out this chapter.

##### (b) Officers and employees

###### (1) Appointment and hiring

An officer or employee of the Foundation—

(A) shall not, by virtue of the appointment or employment of the officer or employee, be considered a Federal employee for any purpose, including the provisions of title 5 governing appointments in the competitive service, except that such an individual may participate in the Federal employee retirement system as if the individual were a Federal employee; and

(B) may not be paid by the Foundation a salary in excess of \$125,000 per year.

###### (2) Executive Director

###### (A) Initial Director

The Secretary shall appoint an individual to serve as the initial Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

###### (B) Subsequent Directors

The Board shall appoint each subsequent Executive Director of the Foundation who shall serve, at the direction of the Board, as the chief operating officer of the Foundation.

###### (C) Qualifications

The Executive Director shall be knowledgeable and experienced in matters relating to natural resources conservation.

(Pub. L. 104-127, title III, §355, Apr. 4, 1996, 110 Stat. 1012.)

#### § 5805. Corporate powers and obligations of Foundation

##### (a) In general

The Foundation—

(1) may conduct business throughout the United States and the territories and possessions of the United States; and

(2) shall at all times maintain a designated agent who is authorized to accept service of process for the Foundation, so that the serving of notice to, or service of process on, the agent, or mailed to the business address of the agent, shall be considered as service on or notice to the Foundation.

##### (b) Seal

The Foundation shall have an official seal selected by the Board that shall be judicially noticed.

##### (c) Powers

To carry out the purposes of the Foundation under section 5802(b) of this title, the Foundation shall have, in addition to the powers otherwise provided under this chapter, the usual powers of a corporation, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income from, or other interest in, the gift, devise, or bequest;

(2) to acquire by purchase or exchange any real or personal property or interest in property, except that funds provided under section 5809 of this title may not be used to purchase an interest in real property;

(3) unless otherwise required by instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income from property;

(4) on the written approval of the Secretary, to use, license, or transfer symbols, slogans, and logos of the Foundation (exclusive of any symbol or logo of a governmental entity);

(5) to borrow money from private sources and issue bonds, debentures, or other debt instruments, subject to section 5808 of this title, except that the aggregate amount of the borrowing and debt instruments outstanding at any time may not exceed \$1,000,000;

(6) to sue and be sued, and complain and defend itself, in any court of competent jurisdiction, except that a member of the Board shall not be personally liable for an action in the performance of services for the Board, except for gross negligence;

(7) to enter into a contract or other agreement with an agency of State or local government, educational institution, or other private organization or person and to make such payments as may be necessary to carry out the functions of the Foundation; and

(8) to do any and all acts that are necessary to carry out the purposes of the Foundation.

##### (d) Interests in property

###### (1) Interests in real property

The Foundation may acquire, hold, and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase, or exchange. An interest in real property shall be treated, among other things, as including an easement or other right for the preservation, conservation, protection, or enhancement of agricultural, natural, scenic, historic, scientific, educational, inspirational, or recreational resources.

###### (2) Gifts

A gift, devise, or bequest may be accepted by the Foundation even though the gift, devise, or bequest is encumbered, restricted, or subject to a beneficial interest of a private person if any current or future interest in the gift, devise, or bequest is for the benefit of the Foundation.

###### (3) Use of symbols, slogans, and logos of the Foundation

###### (A) In general

The Secretary may authorize the Foundation to use, license, or transfer symbols, slogans, and logos of the Foundation.

**(B) Income****(i) In general**

All revenue received by the Foundation from the use, licensing, or transfer of symbols, slogans, and logos of the Foundation shall be transferred to the Secretary.

**(ii) Conservation operations**

The Secretary shall transfer all revenue received under clause (i) to the account within the Natural Resources Conservation Service that is used to carry out conservation operations.

(Pub. L. 104-127, title III, §356, Apr. 4, 1996, 110 Stat. 1013; Pub. L. 107-171, title II, §2506, May 13, 2002, 116 Stat. 274.)

## AMENDMENTS

2002—Subsec. (c)(4) to (8). Pub. L. 107-171, §2506(1), which directed amendment of subsection (c) of section 356 of the Federal Agriculture Improvement Act of 1996 by adding par. (4) and redesignating former pars. (4) to (7) as (5) to (8), respectively, was executed to subsec. (c) of this section, which is section 356 of the Federal Agriculture Improvement and Reform Act of 1996, to reflect the probable intent of Congress.

Subsec. (d)(3). Pub. L. 107-171, §2506(2), which directed amendment of subsection (d) of section 356 of the Federal Agriculture Improvement Act of 1996 by adding par. (3), was executed to subsec. (d) of this section, which is section 356 of the Federal Agriculture Improvement and Reform Act of 1996, to reflect the probable intent of Congress.

**§ 5806. Administrative services and support**

For each of fiscal years 1996 through 1998, the Secretary may provide, without reimbursement, personnel, facilities, and other administrative services of the Department to the Foundation.

(Pub. L. 104-127, title III, §357, Apr. 4, 1996, 110 Stat. 1014.)

**§ 5807. Audits and petition of Attorney General for equitable relief****(a) Audits****(1) In general**

The accounts of the Foundation shall be audited in accordance with section 10101 of title 36, including an audit of lobbying and litigation activities carried out by the Foundation.

**(2) Repealed. Pub. L. 105-225, § 6(b), Aug. 12, 1998, 112 Stat. 1499**

**(b) Relief with respect to certain Foundation acts or failure to act**

The Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate, if the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with this chapter; or

(2) refuses, fails, neglects, or threatens to refuse, fail, or neglect, to discharge the obligations of the Foundation under this chapter.

(Pub. L. 104-127, title III, §358, Apr. 4, 1996, 110 Stat. 1014; Pub. L. 105-225, §6(b), Aug. 12, 1998, 112 Stat. 1499.)

## CODIFICATION

“Section 10101 of title 36” substituted in subsec. (a)(1) for “Public Law 88-504 (36 U.S.C. 1101 et seq.)” on au-

thority of Pub. L. 105-225, §5(b), Aug. 12, 1998, 112 Stat. 1499, the first section of which enacted Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

## AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-225 repealed par. (2) which amended section 1101(77) of former title 36.

**§ 5808. Release from liability****(a) In general**

The United States shall not be liable for any debt, default, act, or omission of the Foundation. The full faith and credit of the United States shall not extend to the Foundation.

**(b) Statement**

An obligation issued by the Foundation, and a document offering an obligation, shall include a prominent statement that the obligation is not directly or indirectly guaranteed, in whole or in part, by the United States (or an agency or instrumentality of the United States).

(Pub. L. 104-127, title III, §359, Apr. 4, 1996, 110 Stat. 1014.)

**§ 5809. Authorization of appropriations**

There are authorized to be appropriated to the Department to be made available to the Foundation \$1,000,000 for each of fiscal years 1997 through 1999 to initially establish and carry out activities of the Foundation.

(Pub. L. 104-127, title III, §360, Apr. 4, 1996, 110 Stat. 1014.)

**CHAPTER 79—NATIONAL PARK SERVICE MANAGEMENT**

## Sec.

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