

ciation on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

RETIREMENT AND CANCELLATION OF CAPITAL STOCK;  
PAYMENTS OF CAPITAL AND SURPLUS TO SECRETARY  
OF THE TREASURY

Act Aug. 5, 1947, ch. 492, §1, 61 Stat. 773, directed the Federal Deposit Insurance Corporation to retire its capital stock by paying the amount received therefor (whether received from the Secretary of the Treasury or the Federal Reserve banks) to the Secretary of the Treasury, to be covered into the Treasury as miscellaneous receipts, with the Corporation to pay to the Secretary so much of its capital and surplus as is in excess of \$1,000,000,000, the balance of the amount to be paid to the Secretary in units of \$10,000,000 except that the last unit to be paid could be less than \$10,000,000.

**§ 1825. Issuance of notes, debentures, bonds, and other obligations; exemptions**

**(a) General rule**

All notes, debentures, bonds, or other such obligations issued by the Corporation shall be exempt, both as to principal and interest, from all taxation (except estate and inheritance taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority: *Provided*, That interest upon or any income from any such obligations and gain from the sale or other disposition of such obligations shall not have any exemption, as such, and loss from the sale or other disposition of such obligations shall not have any special treatment, as such, under the Internal Revenue Code, or laws amendatory or supplementary thereto. The Corporation, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

**(b) Other exemptions**

When acting as a receiver, the following provisions shall apply with respect to the Corporation:

- (1) The Corporation including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of such property's value, such value, and the tax thereon, shall be determined as of the period for which such tax is imposed.

(2) No property of the Corporation shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Corporation, nor shall any involuntary lien attach to the property of the Corporation.

(3) The Corporation shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due.

(4) EXEMPTION FROM CRIMINAL PROSECUTION.—The Corporation shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by the institution, or persons acting on behalf of the institution, prior to the appointment of the Corporation as receiver.

This subsection shall not apply with respect to any tax imposed (or other amount arising) under the Internal Revenue Code of 1986.

**(c) Limitation on borrowing**

**(1) Cost estimate for outstanding obligations, guarantees, and liabilities**

As soon as practicable after August 9, 1989, the Corporation shall estimate the aggregate cost to the Corporation for all outstanding obligations and guarantees of the Corporation which were issued, and all outstanding liabilities which were incurred, by the Corporation before August 9, 1989.

**(2) Estimate of notes and other obligations required**

Before issuing an obligation or making a guarantee, the Corporation shall estimate the cost of such obligations or guarantees.

**(3) Inclusion of estimates in financial statements**

The Corporation shall—

(A) reflect in its financial statements the estimates made by the Corporation under paragraphs (1) and (2) of the aggregate amount of the costs to the Corporation for outstanding obligations and other liabilities, and

(B) make such adjustments as are appropriate in the estimate of such aggregate amount not less frequently than quarterly.

**(4) Estimate of other assets required**

The Corporation shall—

(A) estimate the market value of assets held by it as a result of case resolution activities, with a reduction for expenses expected to be incurred by the Corporation in connection with the management and sale of such assets;

(B) reflect the amounts so estimated in its financial statements; and

(C) make such adjustments as are appropriate of such market value not less than quarterly.

**(5) Maximum amount limitation on outstanding obligations**

Notwithstanding any other provisions of this chapter, the Corporation may not issue or

incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of obligations of the Deposit Insurance Fund, outstanding would exceed the sum of—

(A) the amount of cash or the equivalent of cash held by the Deposit Insurance Fund;

(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Deposit Insurance Fund, other than assets described in subparagraph (A); and

(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 1824(a) of this title.

#### (6) "Obligation" defined

##### (A) In general

For purposes of paragraph (5), the term "obligation" includes—

(i) any guarantee issued by the Corporation, other than deposit guarantees;

(ii) any amount borrowed pursuant to section 1824 of this title; and

(iii) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

##### (B) Valuation of contingent liabilities

The Corporation shall value any contingent liability at its expected cost to the Corporation.

##### (d) Full faith and credit

The full faith and credit of the United States is pledged to the payment of any obligation issued after August 9, 1989, by the Corporation, with respect to both principal and interest, if—

(1) the principal amount of such obligation is stated in the obligation; and

(2) the term to maturity or the date of maturity of such obligation is stated in the obligation.

(Sept. 21, 1950, ch. 967, §2[15], 64 Stat. 890; Pub. L. 101-73, title II, §219, Aug. 9, 1989, 103 Stat. 261; Pub. L. 102-242, title I, §102(a), (c), Dec. 19, 1991, 105 Stat. 2236, 2237; Pub. L. 103-325, title VI, §602(a)(43), Sept. 23, 1994, 108 Stat. 2290; Pub. L. 104-208, div. A, title II, §2704(d)(14)(R), Sept. 30, 1996, 110 Stat. 3009-493; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §8(a)(25), Feb. 15, 2006, 119 Stat. 3614; Pub. L. 109-351, title VII, §720(a), Oct. 13, 2006, 120 Stat. 1998.)

#### REFERENCES IN TEXT

The Internal Revenue Code, referred to in subsecs. (a) and (b), is classified to Title 26, Internal Revenue Code.

#### PRIOR PROVISIONS

Section is derived from subsec. (p) of former section 264 of this title. See Codification note set out under section 1811 of this title.

#### AMENDMENTS

2006—Subsec. (b)(4). Pub. L. 109-351 added par. (4).

Subsec. (c)(5). Pub. L. 109-173 substituted "the Deposit Insurance Fund" for "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" in introductory provisions and in subpar. (A) and "the Deposit Insurance Fund" for "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" in subpar. (B).

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(14)(R). See 1996 Amendment note below.

1996—Subsec. (c)(5). Pub. L. 104-208, §2704(D)(14)(R), which directed substitution of "the Deposit Insurance Fund" for "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" in introductory provisions and in subpar. (A) and "the Deposit Insurance Fund" for "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" in subpar. (B), was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1994—Subsec. (c)(1). Pub. L. 103-325 substituted "OBLIGATIONS, GUARANTEES, AND LIABILITIES" for "OBLIGATIONS LIABILITIES" in heading.

1991—Subsec. (c)(5), (6). Pub. L. 102-242, §102(a), added pars. (5) and (6) and struck out former par. (5) which provided for a 10-percent-minimum net worth requirement for Bank Insurance Fund or Savings Association Insurance Fund and former par. (6) which provided exception for up to \$5,000,000,000 in additional liabilities beyond limitations of par. (5).

Subsec. (c)(7). Pub. L. 102-242, §102(c), struck out par. (7) which provided for calculation of net worth and asset valuation of Bank Insurance Fund and the Savings Association Insurance Fund for purposes of par. (5).

1989—Subsec. (a). Pub. L. 101-73 designated existing provision as subsec. (a), inserted heading, and added subsecs. (b) to (d).

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 8(b) of Pub. L. 109-173, set out as a note under section 1813 of this title.

Amendment by Pub. L. 109-171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109-171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

#### GAO REPORTS

Pub. L. 102-242, title I, §102(b), Dec. 19, 1991, 105 Stat. 2237, as amended by Pub. L. 103-325, title III, §327, Sept. 23, 1994, 108 Stat. 2230; Pub. L. 104-66, title II, §2061, Dec. 21, 1995, 109 Stat. 729, directed Comptroller General to submit report to congressional committees, not later than 90 days after end of any calendar quarter in which Federal Deposit Insurance Corporation had any outstanding obligations pursuant to section 1824 of this title, on Corporation's compliance at the end of that quarter with subsec. (c) of this section, prior to repeal by Pub. L. 104-316, title I, §106(c), Oct. 19, 1996, 110 Stat. 3831.

#### § 1826. Forms of obligations; preparation by Secretary of the Treasury

In order that the Corporation may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this chapter, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Corporation, to be held in the Treasury subject to delivery, upon order of the Corporation. The engraved plates, dies, bed pieces, and other material executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Corporation shall reimburse the Secretary of the Treasury for any expenses in-