

Title 49, Transportation, by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804. Previously, in par. (12) "section 10361 of title 49" was substituted for "section 205 of this Act", meaning section 205 of Pub. L. 93-236, on authority of Pub. L. 95-473, §3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49.

Section 77 of the Bankruptcy Act, referred to in par. (16), 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 The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub.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.

The Conrail Privatization Act, referred to in par. (17A), is subtitle A (§§4001-4052) of title IV of Pub. L. 99-509, Oct. 21, 1986, 100 Stat. 1892, which is classified principally to chapter 22 (§1301 et seq.) of this title. For complete classification of this Act to the Code see Short Title note set out under section 1301 of this title and Tables. The date on which the initial public offering of the securities of the corporation is closed under this Act was Apr. 2, 1987.

#### CODIFICATION

In par. (21), formerly (19), "under section 743(b) of this title," was struck out as the probable intent of Congress, in view of the amendment to par. (19) by section 601(b) of Pub. L. 96-448, which struck out the 6 year limitation within which the special court orders conveyances of rail properties to the Corporation, which conveyances were to be made under section 743(b) of this title. See 1980 Amendment note set out below.

#### AMENDMENTS

1995—Par. (15). Pub. L. 104-88 substituted "rail carrier subject to part A of subtitle IV of title 49" for "common carrier by railroad as defined in section 1(3) of part I of the Interstate Commerce Act (49 U.S.C. 1(3))".

1986—Par. (7). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

Par. (17A). Pub. L. 99-509 added par. (17A).

1981—Pub. L. 97-35 added pars. (3) and (4). Former pars. (3) to (19) redesignated (5) to (21), respectively.

1980—Par. (16). Pub. L. 96-448, §508(b), substituted "or the designated representative of the Secretary" for "or the person at the time performing the duties of the Office of the Secretary of Transportation in accordance with law, or, in his absence, the Deputy Secretary of Transportation".

Par. (19). Pub. L. 96-448, §601(b), struck out " , within 6 years after the date on which the special court orders conveyances of rail properties to the Corporation" after "section 745 of this title". See Codification note above.

1976—Par. (3). Pub. L. 94-248 inserted provision relating to successor by merger, consolidation, etc., of the Corporation

Par. (7). Pub. L. 94-210, §603(c), added par. (7). Former par. (7) redesignated (8).

Par. (8). Pub. L. 94-210, §§601(g), 603(c), redesignated former par. (7) as (8). Former par. (8) redesignated (10).

Pars. (9) to (11). Pub. L. 94-210, §601(g), added par. (9) and redesignated former pars. (8) and (9) as (10) and (11), respectively. Former pars. (10) and (11) redesignated (12) and (13), respectively.

Par. (12). Pub. L. 94-210, §§601(g), 607(t), redesignated former par. (10) as (12), inserted "(or a person owned, leased, or otherwise controlled by a railroad)" before "which are used or useful", and substituted "phrase" for "phase". Former par. (12) redesignated (14).

Pars. (13) to (15). Pub. L. 94-210, §601(g), redesignated former pars. (11) to (13) as (13) to (15) respectively. Former pars. (13) to (15) redesignated (15) to (17) respectively.

Par. (16). Pub. L. 94-555 substituted " , in his absence, the Deputy Secretary of Transportation" for "the duly authorized representative of either of them" after "accordance with law, or".

Pub. L. 94-210, §§601(f), (g), 610(a)(1), redesignated former par. (14) as (16) and substituted provisions relating to the person at the time performing the duties of the Office in accordance with the law, or the duly authorized representative of such person or the Secretary, for provisions relating to the delegate of the Secretary, unless the context indicated otherwise.

Par. (17). Pub. L. 94-210, §§601(g), 610(a)(2), redesignated former par. (15) as (17) and substituted a semicolon for a period.

Pars. (18), (19). Pub. L. 94-210, §610(a)(3), added pars. (18) and (19).

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 1301 of Title 49, Transportation.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as an Effective Date note under section 1101 of this title.

#### 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

Pub. L. 94-555, title III, §303, Oct. 19, 1976, 90 Stat. 2631, provided that: "The provisions of this Act and the amendments made by this Act [amending this section, sections 543, 545, 546, 563, 601, 602, 641, 711, 716, 720, 721, 743, 744, 771, 774, 775, 779, 823, 824, 825, 826, 829, 831, and 854 of this title, section 960 of Title 20, Education, and sections 1a, 5, 5c, 13, 15, 17, 22, 26c, and 1653 of former Title 49, Transportation, and enacting provisions set out as notes under sections 501, 641, 701, and 714 of this title, section 80a-3 of Title 15, Commerce and Trade, and sections 1a and 1654 of former Title 49] shall take effect on October 1, 1976."

#### ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

#### 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.

### SUBCHAPTER II—UNITED STATES RAILWAY ASSOCIATION

#### § 711. Formation and structure

##### (a) Establishment

There is established, in accordance with the provisions of this section, an incorporated non-

profit association to be known as the United States Railway Association.

**(b) Administration**

The Association shall be directed by a Board of Directors. The individuals designated, pursuant to subsection (d)(2) of this section, as the Government members of such Board shall be deemed the incorporators of the Association and shall take whatever steps are necessary to establish the Association, including filing of articles of incorporation, and serving as an acting Board of Directors for a period of not more than 45 days after the date of incorporation of the Association.

**(c) Status**

The Association shall be a government corporation of the District of Columbia subject, to the extent not inconsistent with this subchapter, to the District of Columbia Nonprofit Corporation Act. Except as otherwise provided, employees of the Association shall not be deemed employees of the Federal Government. The Association shall have succession until dissolved by Act of Congress, shall maintain its principal office in the District of Columbia, and shall be deemed to be a resident of the District of Columbia with respect to venue in any legal proceeding.

**(d) Board of Directors**

(1) The Board of Directors of the Association shall consist of five individuals, as follows:

(A) The Chairman, who shall be the individual serving as Chairman on August 13, 1981, until the expiration of his term of office or his resignation, or his replacement, who shall be selected by the outgoing Chairman and the other members of the Board.

(B) The Secretary of Transportation.

(C) The Comptroller General of the United States.

(D) The Chairman of the Commission.

(E) The Chairman of the Board of Directors of the Corporation.

(2) The Chairman may not have any employment or other direct financial relationship with any freight railroad. The Chairman shall receive \$300 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

**(e) Term of office**

The term of office of the Chairman of the Board of Directors of the Association shall expire on December 31, 1987. The Chairman may be reappointed and the term of the Chairman shall be 3 years.

**(f) Quorum**

Three members of the Board of Directors, or their representatives, shall constitute a quorum for the transaction of any function of the Association.

**(g) Assumption of Finance Committee functions**

The Board of Directors shall, on August 13, 1981, assume the functions previously performed by the Finance Committee.

**(h) Representation at meetings**

The members of the Board of Directors may send representatives to meetings of such Board, and such representatives may exercise full powers of the members.

**(i) Miscellaneous<sup>1</sup>**

(1) The Association shall have a seal which shall be judicially recognized.

(2) The Administrator of General Services shall furnish the Association with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(3) The Secretary is authorized to transfer to the Association or the Corporation rights in intellectual property which are directly related to the conduct of the functions of the Association or the Corporation, to the extent that the Federal Government has such rights and to the extent that transfer is necessary to carry out the purposes of this chapter.

(4) Any reference in this chapter to the Chairman of the Commission is to the Chairman of the Commission or the person who is at the time performing the duties of the Chairman of the Commission in accordance with law.

**(j) Use of names<sup>1</sup>**

No person, except the Association, shall hereafter use the words "United States Railway Association" as a name for any business purpose. Violations of this provision may be enjoined by any court of general jurisdiction in an action commenced by the Association. In any such action, the Association may recover any actual damages flowing from such violation, and, in addition, shall be entitled to punitive damages (regardless of the existence or nonexistence of actual damage) in an amount not to exceed \$100 for each day during which such violation was committed. The district courts of the United States shall have jurisdiction over actions brought under this subsection, without regard to the amount in controversy or the citizenship of the parties.

(Pub. L. 93-236, title II, § 201, Jan. 2, 1974, 87 Stat. 988; Pub. L. 94-210, title VI, §§ 603(a), (b), 607(a), 612(j)(2), Feb. 5, 1976, 90 Stat. 88, 96, 109; Pub. L. 94-555, title II, § 211(b)-(e), Oct. 19, 1976, 90 Stat. 2624; Pub. L. 95-611, § 2, Nov. 8, 1978, 92 Stat. 3089; Pub. L. 96-448, title V, § 508(c), Oct. 14, 1980, 94 Stat. 1957; Pub. L. 97-35, title XI, § 1147, Aug. 13, 1981, 95 Stat. 673; Pub. L. 98-181, title II, § 2003(c)(1), Nov. 30, 1983, 97 Stat. 1297; Pub. L. 99-190, § 101(e) [title III, § 332], Dec. 19, 1985, 99 Stat. 1267, 1290.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (c), is Pub. L. 87-569, Aug. 6, 1962, 76 Stat. 265, as amended, which is not classified to the Code.

CODIFICATION

Section 1147 of Pub. L. 97-35 directed that subsecs. (d) to (i) be struck out and replaced by new subsecs. (d) to (h), and that subsecs. (j) and (k) be redesignated (g) and (h), respectively. Because a literal execution of the amendment would result in two subsections designated

<sup>1</sup> See Codification note below.

(g) and two subsections designated (h), and to reflect the probable intent of Congress, subsecs. (j) and (k) have been editorially redesignated (i) and (j), respectively.

#### AMENDMENTS

1985—Subsec. (d)(2). Pub. L. 99-190, §101(e) [title III, §332(1)], inserted “freight” before “railroad”.

Subsec. (e). Pub. L. 99-190, §101(e) [title III, §332(2)], substituted “1987” for “1985”.

1983—Subsec. (e). Pub. L. 98-181 substituted “1985” for “1983”.

1981—Subsec. (d). Pub. L. 97-35 substituted provisions respecting a five-member board for provisions respecting an eleven-member board.

Subsec. (e). Pub. L. 97-35 substituted provisions respecting term of office and reappointment of Chairman for provisions respecting term of office of Chairman and nongovernmental members, reappointment of members, and vacancies.

Subsec. (f). Pub. L. 97-35 substituted provisions respecting three-member quorum requirement for provisions respecting six-member quorum requirement.

Subsec. (g). Pub. L. 97-35 substituted provisions relating to assumption of Finance Committee functions for provisions relating to appointment of the President of the Association. See Codification note above.

Subsec. (h). Pub. L. 97-35 substituted provisions relating to representation at meetings for provisions relating to the executive committee of the Board of Directors. See Codification note above.

Subsec. (i). Pub. L. 97-35 redesignated subsec. (j) as (i). Former subsec. (i), which related to membership, functions, etc., of the Finance Committee, was struck out. See Codification note above.

Subsecs. (j), (k). Pub. L. 97-35 redesignated former subsecs. (j) relating to miscellaneous provisions, and (k) relating to use of names, as (i) and (j), respectively. See Codification note above.

1980—Subsec. (d)(2). Pub. L. 96-448, §508(c)(1), inserted provision authorizing Secretary of Transportation to act directly or through the General Counsel of Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration and substituted provision authorizing Secretary of the Treasury to act directly or through an officer of Department of the Treasury who has been appointed with the advice and consent of the Senate for provision authorizing Secretary of the Treasury to act directly or through Deputy Secretary of the Treasury.

Subsec. (i). Pub. L. 96-448, §508(c)(2), substituted “in the case of the Secretary, through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, and, in the case of the Secretary of the Treasury, through an officer of the Department of the Treasury who has been appointed with the advice and consent of the Senate” for “through their respective Deputy Secretaries”.

Subsec. (j)(4). Pub. L. 96-448, §508(c)(3), struck out provision that any reference in this chapter to Secretary of the Treasury is to Secretary of the Treasury or person who is at time performing duties of the Office of Secretary of the Treasury or, in his absence, Deputy Secretary of the Treasury.

1978—Subsec. (e). Pub. L. 95-611 inserted provision that members of Board shall continue to serve until their successors have been appointed and qualified.

1976—Subsec. (d)(2). Pub. L. 94-555, §211(b), substituted “the Deputy Secretary of Transportation, the Vice Chairman of the Commission, or the Deputy Secretary of the Treasury, as the case may be” for “their duly authorized representatives” after “at any time through”.

Pub. L. 94-210, §603(b)(2), substituted “acting directly or at any time through” for “or”.

Subsec. (h). Pub. L. 94-555, §211(c), struck out “The Secretary and the Chairman of the Commission may

act in such capacity directly or at any time through their duly authorized representatives” after “members of the Board”.

Pub. L. 94-210, §603(b)(1), inserted provision authorizing Secretary and Chairman to act directly or through their duly authorized representatives.

Subsec. (i). Pub. L. 94-555, §211(d), substituted “Deputy Secretaries” for “duly authorized representatives” after “through their respective”.

Pub. L. 94-210, §603(a), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 94-210, §§603(a), 607(a), redesignated former subsec. (i) as (j) and added par. (4). Former subsec. (j) redesignated (k).

Subsec. (j)(4). Pub. L. 94-555, §211(e), inserted “who is” after “Treasury or the person” and “Commission or the person”, and substituted “in his absence, the Deputy Secretary of the Treasury” for “the duly authorized representatives of either of them” after “Treasury in accordance with law”.

Subsec. (k). Pub. L. 94-210, §§603(a), 612(j)(2), redesignated former subsec. (j) as (k), substituted “this provision” for “these provisions”, and struck out “or the Corporation” after “Association” in two places and provisions relating to use of “Consolidated Rail Corporation” as a name for any business purpose.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as an Effective Date note under section 1101 of this title.

#### 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 INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 1302 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 1301 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 1301 of Title 49.

#### 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.

## § 712. Functions of Association

### (a) General

The Association is authorized to—

- (1) monitor the financial performance of the Corporation;
- (2) review whether the goals and requirements of this chapter are met;
- (3) purchase or otherwise acquire or receive, and hold and dispose of securities (whether