

Subsec. (c)(5). Pub. L. 94-436, §3, restructured first sentence limiting indemnification of United States to judgments against Corporation or any subsidiary entered pursuant to par. (2) and to judgments against the National Railroad Passenger Corporation, profitable railroads, a State, or any responsible person entered pursuant to par. (3).

Pub. L. 94-210, §612(f), added par. (5).

Subsec. (c)(6). Pub. L. 94-555, §202(b), added par. (6).

Subsec. (d). Pub. L. 94-210, §612(g), substituted “20” for “5”.

Subsec. (e). Pub. L. 94-436, §5, inserted, after “section 745 of this title” in second parenthetical expression, “or which are made at any time to carry out the purposes of title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or section 791 of this title”.

Pub. L. 94-210, §601(d), added subsec. (e).

1975—Subsec. (c)(1)(C). Pub. L. 94-5 added subpar. (C).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-317 effective 90 days after Oct. 19, 1996, and except as otherwise provided, applicable to proceedings that arise or continue after such effective date, see section 605(e) of Pub. L. 104-317, set out as a note under section 719 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100-352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

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 1979 AMENDMENT

Pub. L. 96-73, title V, §501(b), Sept. 29, 1979, 93 Stat. 558, provided that: “The amendments made by section 204 of this Act [enacting subsec. (b)(6)(B) of this section and section 721(h)(1)(A)(viii), (6) of this title] shall be effective as of the date of enactment [Nov. 4, 1978] of Pub. L. 95-597.”

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 SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) 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.

CASES PENDING IN SPECIAL COURT

For applicability of amendment by Pub. L. 104-317 to cases pending in special court established under section 719(b) of this title, see section 605(d) of Pub. L. 104-317, set out as a note under section 719 of this title.

ADMINISTRATIVE CLAIM STATUS

Pub. L. 95-597, §2, Nov. 4, 1978, 92 Stat. 2548, provided that: “The conferring of administrative claim status on amounts paid for the insurance premiums and benefits described in the amendment made by the first section of this Act [amending this section] shall be effective solely for purposes of meeting the conditions set forth in section 211(h)(4)(A)(iii) of the Regional Rail Reorganization Act of 1973 [section 721(h)(4)(A)(iii) of this title] with respect to which obligations of the estate of a railroad in reorganization may be paid pursuant to such section 211(h) [section 721(h) of this title], and shall not be construed—

“(1) as affecting the jurisdiction of the district court having jurisdiction over such a railroad in reorganization to determine whether such insurance premiums and benefits constitute enforceable contractual obligations of the estate of such a railroad for purposes of reimbursement under such section 211(h) [section 721(h) of this title]; or

“(2) as establishing or reordering any priority which a claim against the estate of such a railroad for reimbursement for the amounts paid for such insurance premiums and benefits may or may not have under the provisions of the Bankruptcy Act [section 1 et seq. of former Title 11, Bankruptcy] or any other law.”

CORPORATION AS SUCCESSOR IN INTEREST

Pub. L. 95-597, §3, Nov. 4, 1978, 92 Stat. 2548, provided that: “Notwithstanding any other provision of law, any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act [section 205 of former Title 11, Bankruptcy], is the successor in interest to a railroad in reorganization shall have standing to assert, in any judicial or administrative proceeding, any claim or defense available to such railroad in reorganization with respect to whether the insurance benefits and premiums described in the amendment made by the first section of this Act [amending this section] constitute enforceable contractual obligations of the estate of such railroad in reorganization. For purposes of this section, the term ‘railroad in reorganization’ has the meaning given such term in paragraph (14) of section 102 of the Regional Rail Reorganization Act of 1973 [section 702(14) 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.

§ 744. Termination and continuation of rail services

(a) Discontinuance

(1) Except as provided in subsections (c) and (f) of this section, rail service on rail properties of a railroad in reorganization in the region, or of a person leased, operated, or controlled by such a railroad, which transfers to the Corporation or to profitable railroads operating in the region all or substantially all of its rail properties designated for such conveyance in the final system plan, and rail service on rail properties of a profitable railroad operating in the region which transfers substantially all of its rail properties to the Corporation or to other railroads pursuant to the final system plan, may be discon-

tinued, to the extent such discontinuance is not precluded by the terms of the leases and agreements referred to in section 743(b)(2) of this title, if—

(A) the final system plan does not designate rail service to be operated over such rail properties;

(B) not sooner than 30 days following the effective date of the final system plan, the trustee or trustees of the applicable railroad in reorganization or a profitable railroad give notice in writing of intent to discontinue such service on a date certain which is not less than 60 days after the date of such notice or on the date of any conveyance ordered by the special court pursuant to section 743(b)(1) of this title, whichever is later; and

(C) the notice required by subparagraph (B) of this paragraph is sent by certified mail to the Commission; to the chief executive officer, the transportation agencies, and the government of each political subdivision of each State in which such rail properties are located; and to each shipper who has used such rail service during the previous 12 months.

(2)(A) If rail properties are not, in accordance with the designations in the final system plan, required to be operated, as a consequence of a recommended arrangement for joint use or operation of rail properties (under section 716(g) of this title) or as part of a coordination project (under sections 716(c) and (g) of this title), rail service on such properties may be discontinued, subsequent to the date of conveyance of rail properties pursuant to such section 743(b)(1) of this title, if the Commission determines that such rail service on such rail properties is not compensatory and if—

(i) the petitioner and any other railroad involved in such arrangement or coordination project have, prior to filing an application for such discontinuance, entered into a binding agreement (effective on or before the effective date of such discontinuance) to carry out such arrangement or project;

(ii) such application is filed with the Commission not later than 1 year after the effective date of the final system plan; and

(iii) such discontinuance is not precluded by the terms of the leases and agreements referred to in such section 743(b)(2).

(B) For purposes of this paragraph, rail service on rail properties is compensatory if the revenue attributable to such properties from such service equals or exceeds the sum of the avoidable costs of providing such service on such properties plus a reasonable return on the value of such rail properties, as determined in accordance with the standards developed pursuant to section 10362(b)(6)¹ of title 49.

(C) The Commission shall make its final determination, with respect to any discontinuance requested under this paragraph, not later than 120 days after the date of filing of an application therefor. The applicant shall have the burden of proving that the service involved is not compensatory. If the Commission fails to make a final determination within such time, the application shall be deemed to be granted.

(D) The Commission may issue such rules, regulations, and procedures as it deems necessary for the conduct of its functions under this paragraph.

(b) Abandonment

(1) Except as provided in subsections (c) and (f) of this section, rail properties over which rail service has been discontinued under subsection (a) of this section may not be abandoned sooner than 120 days after the effective date of the discontinuance. Thereafter, except as provided in subsection (c) of this section, such rail properties may be abandoned upon 30 days' notice in writing to any person (including a government entity) required to receive notice under subsection (a)(1)(C) of this section.

(2) In any case in which rail properties proposed to be abandoned under this section are designated by the final system plan as rail properties which are suitable for use for other public purposes (including roads or highways, other forms of mass transportation, conservation, and recreation), such rail properties shall not be sold, leased, exchanged, or otherwise disposed of during the 240-day period beginning on the date of notice of proposed abandonment under this section unless such rail properties have first been offered, upon reasonable terms, for acquisition for public purposes.

(3) Rail service may be discontinued, under subsection (a) of this section, and rail properties may be abandoned, under this section, notwithstanding any provision of part A of subtitle IV of title 49, the constitution or law of any State, or the decision of any court or administrative agency of the United States or of any State.

(c) Continuation of rail services

No rail service may be discontinued and no rail properties may be abandoned, pursuant to this section—

(1) in the case of service and properties referred to in subsections (a)(1) and (b)(1) of this section, after 2 years from the effective date of the final system plan or more than 2 years after the date on which the final rail service continuation payment is received, whichever is later; or

(2) if a financially responsible person (including a government entity) offers—

(A) to provide a rail service continuation payment which is designed to cover the difference between the revenue attributable to such rail properties and the avoidable costs of providing rail service on such properties, together with a reasonable return on the value of such properties;

(B) to provide a rail service continuation payment which is payable pursuant to a lease or agreement with a State or with a local or regional transportation authority under which financial support was being provided on January 2, 1974 for the continuation of rail passenger service; or

(C) to purchase, pursuant to subsection (f) of this section, such rail properties in order to operate rail services thereon.

If a rail service continuation payment is offered, pursuant to paragraph (2)(A) of this subsection, for both freight and passenger service on the

¹ See References in Text note below.

same rail properties, the owner of such properties may not be entitled to more than one payment of a reasonable return on the value of such properties.

(d) Rail freight service

(1) If a rail service continuation payment is offered, pursuant to subsection (c)(2)(A) of this section, for rail freight service, the person offering such payment shall designate the operator of such service and enter into an operating agreement with such operator. The person offering such payment shall designate as the operator of such service—

(A) the Corporation, if rail properties of the Corporation connect with the line of railroad involved, unless the Commission determines that such rail service continuation could be performed more efficiently and economically by another railroad;

(B) any other railroad whose rail properties connect with such line, if the Corporation's rail properties do not so connect or if the Commission makes a determination in accordance with subparagraph (A) of this paragraph; or

(C) any responsible person (including a government entity) which is willing to operate rail service over such rail properties.

A designated railroad may refuse to enter into such an operating agreement only if the Commission determines, on petition by any affected party, that the agreement would substantially impair such railroad's ability to serve adequately its own patrons or to meet its outstanding common carrier obligations. The designated operator shall, pursuant to each such operating agreement (i) be obligated to operate rail freight service on such rail properties, and (ii) be entitled to receive, from the person offering such payment, the difference between the revenue attributable to such properties and the avoidable costs of providing service on such rail properties, together with a reasonable management fee, as determined by the Office.

(2) The trustees of a railroad in reorganization shall permit rail service to be continued on any rail properties with respect to which a rail service continuation payment operating agreement has been entered into under this subsection. Such trustees shall receive a reasonable return on the value of such properties, as determined in accordance with the standards developed pursuant to section 10362(b)(6)¹ of title 49.

(3) If necessary to prevent any disruption or loss of rail service, at any time after the date of conveyance, pursuant to section 743(b)(1) of this title, the Commission shall take such action as may be appropriate under its existing authority (including the enforcement of common carrier requirements applicable to railroads in reorganization in the region) to ensure compliance with obligations imposed under this subsection. The district courts of the United States shall have jurisdiction, upon petition by the Commission or any interested person (including a government entity), to enforce any order of the Commission issued pursuant to the exercise of its authority under this subsection, or to enjoin any designated entity or the trustees of a railroad in reorganization in the region from refus-

ing to comply with the provisions of this subsection.

(4) No determination of reasonable payment for the use of rail properties of a railroad in reorganization in the region, and no determination of value of rail properties of such a railroad (including supporting or related documents or reports of any kind) which is made in connection with any lease agreement, contract of sale, or other agreement or understanding which is entered into after October 19, 1976—

(A) pursuant to this section; or

(B) pursuant to section 762¹ of this title or section 17¹ of the Federal Transit Act (49 U.S.C. 1613),

shall be admitted as evidence, or used for any other purpose, in any civil action, or any other proceeding for damages or compensation, arising under this chapter.

(e) Rail passenger service

(1) The Corporation (or a profitable railroad) shall provide rail passenger service for a period of 180 days immediately following the date of conveyance (pursuant to section 743(b)(1) of this title), with respect to any rail properties over which a railroad in reorganization in the region, or a person leased, operated, or controlled by such a railroad, was providing rail passenger service immediately prior to such date of conveyance. Such service shall be provided on such properties regardless of whether or not such properties are designated in the final system plan as rail properties over which rail service is required to be operated, except with respect to properties over which such service is provided by the National Railroad Passenger Corporation.

(2) If a State (or a local or regional transportation authority) was providing financial assistance to support the operation of rail passenger service, pursuant to a lease or agreement which was in effect immediately prior to the date of conveyance (pursuant to such section 743(b)(1) of this title), the Corporation (or a profitable railroad) shall be bound by the service provisions of such lease or agreement for the duration of the 180-day mandatory operation period specified in paragraph (1) of this subsection. If a State or such an authority was providing financial assistance for the continuation of rail passenger service on rail properties immediately prior to such date of conveyance, it shall provide the same level of financial assistance during such 180-day mandatory operation period. If no such financial assistance was being provided or if no such lease or agreement was in effect immediately prior to such date of conveyance, with respect to any such rail properties, the Corporation (or a profitable railroad) shall provide the same level of rail passenger service, for the duration of such 180-day mandatory operation period, that was provided prior to such date by the applicable railroad. If—

(A) such financial assistance is not provided;

(B) a State (or a local or regional transportation authority) has not, by the end of such 180-day mandatory operation period, offered a rail service continuation payment pursuant to subsection (c)(2)(A) of this section;

(C) an applicable rail service continuation payment pursuant to such subsection (c)(2)(A) is not paid when it is due; or

(D) a payment required under a lease or agreement, pursuant to section 743(b)(2) of this title or subsection (c)(2)(B) of this section, is not paid when it is due,

the Corporation (or, where applicable, the National Railroad Passenger Corporation, a profitable railroad, or the trustee or trustees of a railroad in reorganization in the region) may (i) discontinue such rail passenger service, and (ii) with respect to rail properties not designated for inclusion in the final system plan, abandon such properties pursuant to subsections (a) and (b) of this section.

(3) Nothing in this subsection shall be construed to affect the obligation of the Corporation (or a profitable railroad), or of the trustees of the railroads in reorganization in the region, to provide rail passenger service pursuant to section 743(b)(2) of this title or subsection (c)(2)(B) of this section.

(4) If a State (or a local or regional transportation authority)—

(A) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of the² section, for the operation of rail passenger service after the 180-day mandatory operation period, and

(B) provides compensation, pursuant to paragraph (2) of this subsection, for operations conducted during the 180-day mandatory operation period; or

(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section, for the operation of rail passenger service provided under an agreement or lease pursuant to section 743(b)(2) of this title or subsection (c)(2)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease, except that such services shall not be eligible for assistance under section 17(a)(2)¹ of the Federal Transit Act (49 U.S.C. 1613(a)(2)),

the Corporation (or a profitable railroad) shall continue to provide such service after the end of such period, except as otherwise provided in this subsection.

(5)(A) The Secretary shall reimburse the Corporation (or a profitable railroad) for any loss which is incurred by it during the 180-day mandatory operation period specified in paragraph (1) of this subsection which is not compensated for by a State (or a local or regional transportation authority). The amount of such reimbursement shall be determined pursuant to section 17(a)(1)¹ of the Federal Transit Act.

(B) The Secretary shall reimburse States, local public bodies, and agencies thereof for additional costs incurred by such States, bodies, and agencies for rail service continuation payments for rail passenger service pursuant to section 17(a)(2)¹ of the Federal Transit Act.

(C) For purposes of the obligation of the Secretary to reimburse the Corporation (or a profitable railroad) or States, local public bodies, and

agencies thereof under subparagraphs (A) and (B) of this paragraph, the level of rail passenger service shall be determined on the basis of train miles, car miles, or some other appropriate indicia of scheduled train movements. Programs to correct deferred maintenance on rolling stock, right-of-way, and other facilities which are designed to maintain service, meet on-time performance, and maintain a reasonable degree of passenger comfort (and costs incurred incident thereto) shall be included within the meaning of the term "loss" as used in subparagraph (A) of this paragraph and within the meaning of the term "additional costs" as used in subparagraph (B) of this paragraph and section 17(a)(2)¹ of the Federal Transit Act (49 U.S.C. 1613(a)(2)).

(D) If a dispute arises with respect to the application of any such regulations, the parties to such dispute may submit such dispute to arbitration by a third party. If the parties are unable to agree upon the selection of an arbitrator, the Chairman of the Commission shall serve in that capacity (except as to matters required to be decided by the Commission, pursuant to section 562(a) of this title).

(6) Notwithstanding any other provision of this subsection, the Corporation is not obligated to provide rail passenger service on rail properties if a State (or a local or regional transportation authority) contracts for such service to be provided on such properties by an operator other than the Corporation, except that the Corporation shall, where appropriate, provide such operator with access to such properties for such purpose.

(7)(A) If a State (or a local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service, the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) of this subsection). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties, other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 716(c)(1)(C) and 716(c)(1)(D) of this title and to the Corporation pursuant to section 743(b)(1) of this title, necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service.

(B) As used in this paragraph, the term "additional rail passenger service" means rail pas-

²So in original. Probably should be "this".

senger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection), including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 743(b)(1) of this title, or over (i) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this chapter, or (ii) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access.

(C) Notwithstanding any other provision of this paragraph, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

(8) The Secretary shall, in consultation with the Association, conduct a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property, resulting from the operation of rail passenger service required to be operated pursuant to this subsection or section 743(b)(2) of this title, which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). Such study shall identify the nature of the risks to the Corporation, the probable degree of uninsurability of such risks, and the desirability and feasibility of various indemnification programs, including subsidy offers made pursuant to this section, self-insurance through a passenger tax or other mechanism, or government indemnification for such liabilities. Within one year after November 8, 1978, the Secretary shall prepare a report with appropriate recommendations and shall submit such report to the Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.

(f) Purchase

If an offer to purchase is made under subsection (c)(2)(C) of this section, such offer shall be accompanied by an offer of a rail service continuation payment. Such payment shall continue until the purchase transaction is completed, unless a railroad assumes operations over such rail properties of its own account pursuant to an order or authorization of the Commission. Whenever a railroad in reorganization in the region or a profitable railroad gives notice of intent to discontinue service pursuant to subsection (a) of this section, such railroad shall, upon the request of anyone apparently qualified to make an offer to purchase or to provide a rail service continuation payment, promptly make available its most recent reports on the physical condition of such property, together with such traffic and revenue data as would be required under subpart B of part 1121 of chapter X of title 49 of the Code of Federal Regulations and such other data as are necessary to ascertain the avoidable costs of providing service over such rail properties.

(g) Abandonment by Corporation

After the rail system to be operated by the Corporation or a subsidiary thereof under the final system plan has been in operation for 2 years, the Commission may authorize the Corporation or a subsidiary thereof to abandon any rail properties as to which it determines that rail service over such properties is not required by the public convenience and necessity, if the Corporation or a subsidiary thereof can demonstrate that no State (or local or regional transportation authority) is willing to offer a rail service continuation payment pursuant to subsection (c) of this section. The Commission may, at any time after the effective date of the final system plan, authorize additional rail service in the region or authorize the abandonment of rail properties which are not being operated by the Corporation or any subsidiary or affiliate thereof or by any other person. Determinations by the Commission under this subsection shall be made pursuant to applicable provisions of part A of subtitle IV of title 49.

(h) Interim abandonment

After February 5, 1976, and prior to the date of conveyance (pursuant to section 743(b)(1) of this title), no railroad in reorganization in the region may discontinue service or abandon any line of railroad other than in accordance with the provisions of this chapter, unless (1) it is authorized to do so by the Association, and (2) no affected State (or local or regional transportation authority) reasonably opposes such action, notwithstanding any provision of any other Federal law, the constitution or law of any State, or the decision or order of, or the pendency of any proceeding before any Federal or State court, agency, or authority.

(i) Disposition of designated rail properties

No railroad in reorganization in the region and no person leased, operated or controlled by such a railroad shall sell, transfer, encumber, or otherwise dispose of rail property, or any right or interest therein, designated for transfer to the Corporation or conveyance to a profitable railroad in the final system plan, except pursuant to section 743(b) of this title. The provisions of this subsection shall not apply to any such sale, transfer, encumbrance, or other disposition—

(1) as to which the Association generally or specifically consents in writing;

(2) which, prior to February 5, 1976, had been specifically approved by a United States district court having jurisdiction over the reorganization of a railroad in reorganization under section 77 of the Bankruptcy Act; or

(3) following certification to the special court, pursuant to section 719(c) of this title, of any such rail properties not previously so certified.

(Pub. L. 93-236, title III, §304, Jan. 2, 1974, 87 Stat. 1008; Pub. L. 94-210, title VI, §607(i), title VIII, §804, Feb. 5, 1976, 90 Stat. 97, 133; Pub. L. 94-555, title II, §§205, 206, Oct. 19, 1976, 90 Stat. 2620, 2621; Pub. L. 95-473, §4(b), Oct. 17, 1978, 92 Stat. 1466; Pub. L. 95-607, title II, §201, Nov. 8, 1978, 92 Stat. 3064; Pub. L. 97-449, §4(b)(2), Jan. 12, 1983, 96 Stat. 2441; Pub. L. 102-240, title III, §3003(b), Dec. 18, 1991, 105 Stat. 2088; Pub. L.

104-88, title III, §327(3), Dec. 29, 1995, 109 Stat. 951; Pub. L. 104-287, §6(f)(4)(A), Oct. 11, 1996, 110 Stat. 3399.)

Editorial Notes

REFERENCES IN TEXT

Section 10362(b)(6) of title 49, referred to in subsecs. (a)(2)(B) and (d)(2), was omitted in the general amendment of subtitle IV of Title 49, Transportation, by Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 804. Previously, in subsec. (d)(2), "section 10362(b)(6) of title 49" was substituted for "section 205(d)(6) of this Act", meaning section 205(d)(6) 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 of Title 49.

Section 762 of this title, referred to in subsec. (d)(4)(B), was repealed by Pub. L. 94-210, title VIII, §806, Feb. 5, 1976, 90 Stat. 143, eff. Apr. 1, 1978.

Section 17 of the Federal Transit Act, referred to in subsecs. (d)(4)(B) and (e)(4)(C), (5)(A) to (C), which was classified to section 1613 of former Title 49, Transportation, was repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379.

Section 77 of the Bankruptcy Act, referred to in subsec. (i)(2), 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.

AMENDMENTS

1996—Subsec. (b)(3). Pub. L. 104-287 made technical amendment to directory language of Pub. L. 104-88, §327(3)(B). See 1995 Amendment note below.

1995—Subsec. (a)(2)(B). Pub. L. 104-88, §327(3)(A), substituted "section 10362(b)(6) of title 49" for "section 205(d)(6) of this Act".

Subsec. (b)(3). Pub. L. 104-88, §327(3)(B), as amended by Pub. L. 104-287, substituted "part A of subtitle IV of title 49" for "the Interstate Commerce Act".

Subsec. (d)(3). Pub. L. 104-88, §327(3)(C), substituted "this title, the Commission" for "this title, the Commission—", struck out "(A)" before "shall take such action", and substituted "under this subsection." for "under this subsection; and

"(B) shall have authority, in accordance with the provisions of section 1(16)(b) of the Interstate Commerce Act (49 U.S.C. 1(16)(b)), to direct rail service to be provided by any designated railroad or by the trustees of a railroad in reorganization in the region, if a rail service continuation payment has been offered but an applicable operating or lease agreement is not in effect.

For purposes of the preceding sentence, any compensation required as a result of such directed service shall be determined in accordance with the standards developed pursuant to section 205(d)(6) of this Act."

Subsec. (e)(4)(A). Pub. L. 104-88, §327(3)(D)(i), struck out "and under regulations issued by the Office pursuant to section 205(d)(5) of this Act" before " , for the operation".

Subsec. (e)(4)(C). Pub. L. 104-88, §327(3)(D)(ii), struck out "and regulations issued by the Office pursuant to section 205(d)(5) of this Act" after "subsection (c)(2)(A) of this section".

Subsec. (e)(5)(A), (B). Pub. L. 104-88, §327(3)(E), struck out before period at end "and under regulations issued by the Office pursuant to section 205(d)(5) of this Act".

Subsec. (e)(7)(A). Pub. L. 104-88, §327(3)(F), struck out "and under regulations issued by the Office pursuant to section 205(d)(5) of this Act" after "subsection (c)(2)(A) of this section".

Subsec. (g). Pub. L. 104-88, §327(3)(G), substituted "part A of subtitle IV of title 49" for "the Interstate Commerce Act".

1991—Subsecs. (d)(4)(B), (e)(4)(C), (5)(A) to (C). Pub. L. 102-240 substituted "Federal Transit Act" for "Urban Mass Transportation Act of 1964".

1983—Subsec. (j). Pub. L. 97-449 repealed section 304(j) of Pub. L. 93-236, effective Oct. 17, 1978, the date Pub. L. 95-473 repealed subsec. (j) by repealing section 804 "Sec. 304(j)" of Pub. L. 94-210. See 1978 Amendment note below.

1978—Subsec. (e). Pub. L. 95-607 added subpar. (C) of par. (4) and pars. (7) and (8).

Subsec. (j). Pub. L. 95-473 struck out subsec. (j) which provided for exempt rail mass transportation not under the jurisdiction of the Interstate Commerce Commission.

1976—Subsec. (a). Pub. L. 94-210, §804, redesignated existing provisions as par. (1) and inserted provision relating to applicability to a railroad in reorganization in the region, or of a person leased, operated, or controlled by such a railroad, in subpar. (B) inserted provision relating to notice on the date of any conveyance ordered by the special court, and in subpar. (C) inserted requirement that notice be sent to the Commission and substituted reference to the chief executive officer for reference to the Governor, and added par. (2).

Subsec. (b). Pub. L. 94-210, §804, in par. (1) inserted exception of subsecs. (c) and (f) of this section and substituted provisions requiring notice to be sent to any person (including a government entity), for provisions requiring notice to be sent to all those required to receive notice, in par. (2) substituted "240" for "180", and added par. (3).

Subsec. (c). Pub. L. 94-210, §804, substituted provisions relating to continuation of rail services and applicability of rail service continuation payments to such continuation, for provisions relating to limitations of Interstate Commerce Act, State constitution or law, or decision of Federal or State court or agency on power to discontinue rail service and abandon rail properties and applicability of rail service continuation subsidies on such power.

Subsec. (d). Pub. L. 94-210, §804, added subsec. (d). Former subsec. (d) redesignated (f) and amended.

Subsec. (d)(4). Pub. L. 94-555, §205(a), added par. (4).

Subsec. (e). Pub. L. 94-210, §§607(i), 804, added subsec. (e). Former subsec. (e) redesignated (g) and amended.

Subsec. (e)(5)(D). Pub. L. 94-555, §205(b), redesignated former subpar. (C) as (D) and added subpar. (C).

Subsec. (f). Pub. L. 94-210, §804, redesignated former subsec. (d) as (f) and substituted provisions relating to rail service continuation payments, for provisions relating to rail service continuation subsidies. Former subsec. (f) redesignated (h) and amended.

Subsec. (g). Pub. L. 94-210, §804, redesignated former subsec. (e) as (g) and inserted reference to any subsidiary of a Corporation and provision relating to demonstration by the Corporation, etc., that no State (or local or regional transportation authority) will offer a continuation payment under subsec. (c) of this section.

Subsec. (h). Pub. L. 94-210, §804, redesignated former subsec. (f) as (h), substituted "February 5, 1976, and prior to the date of conveyance (pursuant to section 743(b)(1) of this title)" for "January 2, 1974" and "reorganization in the region may" for "reorganization may", and made minor changes in structure.

Subsecs. (i), (j). Pub. L. 94-210, §804, added subsecs. (i) and (j).

Subsec. (j)(1). Pub. L. 94-555, §206(1), inserted limitation "by rail" to mass transportation services, and provided that any local body providing mass transportation services by rail is exempted from the rules, regulations, and orders promulgated under the Interstate Commerce Act, if interstate fares or application to the Interstate Commerce Commission for a change in such fares is subject to the approval or disapproval of the Governor of any state in which it provides services.

Subsec. (j)(2)(B). Pub. L. 94-555, §206(2), substituted definition of "mass transportation services" for "mass transportation".

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104-287, §6(f)(4)(A), Oct. 11, 1996, 110 Stat. 3399, provided that the amendment made by section 6(f)(4)(A) is effective Dec. 29, 1995.

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 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 SPECIAL COURT, REGIONAL RAIL REORGANIZATION ACT OF 1973, AND TRANSFER OF FUNCTIONS

Special court abolished and all jurisdiction and functions transferred to United States District Court for District of Columbia, see section 719(b)(2) 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.

§ 744a. End of Conrail commuter service obligation

Notwithstanding any other provision of law or contract, Conrail shall be relieved of any legal obligation to operate commuter service on January 1, 1983.

(Pub. L. 97-35, title XI, §1136, Aug. 13, 1981, 95 Stat. 647.)

Editorial Notes**CODIFICATION**

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1981 and also as part of the Northeast Rail Service Act of 1981, and not as part of the Regional Rail Reorganization Act of 1973 which comprises this chapter.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

Section effective Aug. 13, 1981, see section 1169 of Pub. L. 97-35, set out as a note under section 1101 of this title.

AUTHORIZATION OF APPROPRIATION TO FACILITATE TRANSFER OF RAIL COMMUTER SERVICE FROM CONRAIL TO OTHER OPERATORS; STANDARDS FOR DISTRIBUTION OF APPROPRIATED FUNDS

Pub. L. 97-35, title XI, §1139(b), Aug. 13, 1981, 95 Stat. 652, as amended by Pub. L. 97-468, title V, §504(a), Jan. 14, 1983, 96 Stat. 2552, provided that an amount up to \$50,000,000 would be appropriated to the Secretary to facilitate the transfer of rail commuter services from Conrail to other operators, with the Secretary to prescribe by regulation standards for the obligation and distribution of the funds, which would be available only until Oct. 1, 1986.

§ 745. Continuing reorganization; supplemental transactions**(a) Proposals**

If the Secretary or the Association determines that, as part of continuing reorganization, further restructuring of rail properties in the region through transactions supplemental to the final system plan would promote the establishment and retention of a financially self-sustaining rail service system in the region adequate to meet the needs of the region, the Secretary or the Association, as the case may be, may develop proposals for such supplemental transactions as are necessary or appropriate to implement the needed restructuring. Transfers of rail properties included in proposals developed by the Association shall be limited to (1) rail properties which would have qualified for designation under section 716(c)(1)(A) of this title but which were not transferred or conveyed under the final system plan, and which the Association finds to be essential to the efficient operations of the Corporation, and (2) transfers, consistent with the final system plan, of rail properties from the Corporation to a subsidiary thereof. Each proposal (other than a proposal developed by the Association) shall be submitted in writing to the Association and shall state and describe any transactions proposed, the rail properties involved, the parties to such transactions, the financial and other terms of such transactions, the purposes of the chapter or the goals of the final system plan intended to be effected by such transactions, and such other information incidental thereto as the Association may prescribe. Within 10 days after receipt of a proposal developed by the Secretary, and upon the development of a proposal developed by the Association, the Association shall publish a summary of such proposal in the Federal Register, and shall afford interested persons (including the Corporation when property is to be transferred to or from the Corporation) an opportunity to comment thereon.

(b) Evaluation by Association

The Association shall analyze each proposal containing one or more supplemental transactions, taking into account the comments of interested persons and statements and exhibits submitted at any public hearings which may