

Editorial Notes

CODIFICATION

October 27, 1986, referred to in subsec. (e)(1)(B), was in the original “the date of the enactment of this Act” which was translated as meaning the date of the enactment of Pub. L. 99-563, which enacted subsec. (e), to reflect the probable intent of Congress.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-563, §8(b)(1), inserted reference to section 3905 of this title.

Subsec. (b)(1). Pub. L. 99-563, §12(d)(1), substituted “liability insurance” for “product liability or completed operations liability insurance, and comprehensive general liability insurance which includes either of these coverages.”

Subsec. (b)(2)(A). Pub. L. 99-563, §12(d)(2), struck out “product liability or completed operations insurance, and comprehensive general” before “liability coverage”.

Subsecs. (d) to (h). Pub. L. 99-563, §§6, 8(b)(2), added subsecs. (d) to (h).

§ 3904. Securities laws**(a) Ownership interest of members in risk retention groups**

The ownership interests of members in a risk retention group shall be—

(1) considered to be exempted securities for purposes of section 5 of the Securities Act of 1933 [15 U.S.C. 77e] and for purposes of section 12 of the Securities Exchange Act of 1934 [15 U.S.C. 78l]; and

(2) considered to be securities for purposes of the provisions of section 17 of the Securities Act of 1933 [15 U.S.C. 77q] and the provisions of section 10 of the Securities Exchange Act of 1934 [15 U.S.C. 78j].

(b) Investment companies

A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(c) State blue sky laws

The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.

(Pub. L. 97-45, §5, Sept. 25, 1981, 95 Stat. 952.)

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REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (b), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§80a-1 et seq.) of chapter 2D of this title. For complete classification of this Act to the Code, see section 80a-51 of this title and Tables.

§ 3905. Clarification concerning permissible State authority**(a) No exemption from State motor vehicle no-fault and motor vehicle financial responsibility laws**

Nothing in this chapter shall be construed to exempt a risk retention group or purchasing group authorized under this chapter from the policy form or coverage requirements of any State motor vehicle no-fault or motor vehicle financial responsibility insurance law.

(b) Applicability of exemptions

The exemptions provided under this chapter shall apply only to the provision of liability insurance by a risk retention group or the purchase of liability insurance by a purchasing group, and nothing in this chapter shall be construed to permit the provision or purchase of any other line of insurance by any such group.

(c) Prohibited insurance policy coverage

The terms of any insurance policy provided by a risk retention group or purchased by a purchasing group shall not provide or be construed to provide insurance policy coverage prohibited generally by State statute or declared unlawful by the highest court of the State whose law applies to such policy.

(d) State authority to specify acceptable means of demonstrating financial responsibility

Subject to the provisions of section 3902(a)(4) of this title relating to discrimination, nothing in this chapter shall be construed to preempt the authority of a State to specify acceptable means of demonstrating financial responsibility where the State has required a demonstration of financial responsibility as a condition for obtaining a license or permit to undertake specified activities. Such means may include or exclude insurance coverage obtained from an admitted insurance company, an excess lines company, a risk retention group, or any other source regardless of whether coverage is obtained directly from an insurance company or through a broker, agent, purchasing group, or any other person.

(Pub. L. 97-45, §6, as added Pub. L. 99-563, §8(c), Oct. 27, 1986, 100 Stat. 3175.)

§ 3906. Injunctive orders issued by United States district courts

Any district court of the United States may issue an order enjoining a risk retention group from soliciting or selling insurance, or operating, in any State (or in all States) or in any territory or possession of the United States upon a finding of such court that such group is in hazardous financial condition. Such order shall be binding on such group, its officers, agents, and employees, and on any other person acting in active concert with any such officer, agent, or employee, if such other person has actual notice of such order.

(Pub. L. 97-45, §7, as added Pub. L. 99-563, §9, Oct. 27, 1986, 100 Stat. 3176.)

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SUBCHAPTER I—EXPORT TRADING COMPANIES AND TRADE ASSOCIATIONS

§ 4001. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) United States exports are responsible for creating and maintaining one out of every nine manufacturing jobs in the United States and for generating one out of every seven dollars of total United States goods produced;

(2) the rapidly growing service-related industries are vital to the well-being of the United States economy inasmuch as they create jobs for seven out of every ten Americans, provide 65 per centum of the Nation's gross national product, and offer the greatest potential for significantly increased industrial trade involving finished products;

(3) trade deficits contribute to the decline of the dollar on international currency markets and have an inflationary impact on the United States economy;

(4) tens of thousands of small- and medium-sized United States businesses produce exportable goods or services but do not engage in exporting;

(5) although the United States is the world's leading agricultural exporting nation, many farm products are not marketed as widely and effectively abroad as they could be through export trading companies;

(6) export trade services in the United States are fragmented into a multitude of separate functions, and companies attempting to offer export trade services lack financial leverage to reach a significant number of potential United States exporters;

(7) the United States needs well-developed export trade intermediaries which can achieve economies of scale and acquire expertise enabling them to export goods and services profitably, at low per unit cost to producers;

(8) the development of export trading companies in the United States has been hampered by business attitudes and by Government regulations;

(9) those activities of State and local governmental authorities which initiate, facilitate, or expand exports of goods and services can be an important source for expansion of total United States exports, as well as for experimentation in the development of innovative

export programs keyed to local, State, and regional economic needs;

(10) if United States trading companies are to be successful in promoting United States exports and in competing with foreign trading companies, they should be able to draw on the resources, expertise, and knowledge of the United States banking system, both in the United States and abroad; and

(11) the Department of Commerce is responsible for the development and promotion of United States exports, and especially for facilitating the export of finished products by United States manufacturers.

(b) It is the purpose of this chapter to increase United States exports of products and services by encouraging more efficient provision of export trade services to United States producers and suppliers, in particular by establishing an office within the Department of Commerce to promote the formation of export trade associations and export trading companies, by permitting bank holding companies, bankers' banks, and Edge Act corporations and agreement corporations that are subsidiaries of bank holding companies to invest in export trading companies, by reducing restrictions on trade financing provided by financial institutions, and by modifying the application of the antitrust laws to certain export trade.

(Pub. L. 97-290, title I, § 102, Oct. 8, 1982, 96 Stat. 1233.)

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REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in original "this Act", meaning Pub. L. 97-290, Oct. 8, 1982, 96 Stat. 1233, which enacted this chapter and section 6a of this title and section 635a-4 of Title 12, Banks and Banking, amended section 45 of this title and sections 372 and 1843 of Title 12, and enacted provisions set out as notes under sections 1, 4001, and 4011 of this title and sections 1841 and 1843 of Title 12. For complete classification of this Act to the Code, see Tables.

Edge Act corporation, referred to in subsec. (b), is a corporation organized under section 25A of the Federal Reserve Act, as added by act Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended, popularly known as the Edge Act, which is classified to subchapter II (§611 et seq.) of chapter 6 of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 611 of Title 12 and Tables.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99-64, §1, July 12, 1985, 99 Stat. 120, provided that: "Titles I and II of this Act [enacting sections 4051 to 4053 of this title, section 1864 of Title 19, Customs Duties, and section 466c of Title 46, Appendix, Shipping, amending sections 5314 and 5315 of Title 5, Government Organization and Employees, sections 2304 and 2778 of Title 22, Foreign Relations and Intercourse, section 185 of Title 30, Mineral Lands and Mining, and former sections 4601 to 4606, 4609, 4610, 4614, 4615 to 4620, and 4622 of Title 50, War and National Defense, and enacting provisions set out as notes under section 5314 of Title 5 and former sections 4604, 4605, and 4617 of Title 50] may be cited as the 'Export Administration Amendments Act of 1985'."

SHORT TITLE

Pub. L. 97-290, title I, §101, Oct. 8, 1982, 96 Stat. 1233, provided that: "This title [enacting this subchapter]