

**Titles I, III, IV, V, and VIII of the Commodity Futures Modernization Act of 2000**

[Appendix D & E of PL 106-554; Enacted December 21, 2000]

[As Amended Through P.L. 117-339, Enacted January 5, 2023]

**Currency:** This publication is a compilation of the text of Public Law 106-554. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>

**Note:** While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).

**SECTION 1. [7 U.S.C. 1 note] SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Commodity Futures Modernization Act of 2000”.

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**TITLE I—COMMODITY FUTURES MODERNIZATION**

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**SEC. 105. HYBRID INSTRUMENTS; SWAP TRANSACTIONS.**

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(c) **[7 U.S.C. 2 note] STUDY REGARDING RETAIL SWAPS.**—

(1) **IN GENERAL.**—The Board of Governors of the Federal Reserve System, the Secretary of the Treasury, the Commodity Futures Trading Commission, and the Securities and Exchange Commission shall conduct a study of issues involving the offering of swap agreements to persons other than eligible contract participants (as defined in section 1a of the Commodity Exchange Act).

(2) **MATTERS TO BE ADDRESSED.**—The study shall address—

(A) the potential uses of swap agreements by persons other than eligible contract participants;

(B) the extent to which financial institutions are willing to offer swap agreements to persons other than eligible contract participants;

(C) the appropriate regulatory structure to address customer protection issues that may arise in connection with the offer of swap agreements to persons other than eligible contract participants; and

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(D) such other relevant matters deemed necessary or appropriate to address.

(3) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, a report on the findings and conclusions of the study required by paragraph (1) shall be submitted to Congress, together with such recommendations for legislative action as are deemed necessary and appropriate.

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**SEC. 122. [7 U.S.C. 1 note] RULE OF CONSTRUCTION.**

Except as expressly provided in this Act or an amendment made by this Act, nothing in this Act or an amendment made by this Act supersedes, affects, or otherwise limits or expands the scope and applicability of laws governing the Securities and Exchange Commission.

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**TITLE III—LEGAL CERTAINTY FOR  
SWAP AGREEMENTS**

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**SEC. 304. [7 U.S.C. 1 note] SAVINGS PROVISIONS.**

Nothing in this Act or the amendments made by this Act shall be construed as finding or implying that any swap agreement is or is not a security for any purpose under the securities laws. Nothing in this Act or the amendments made by this Act shall be construed as finding or implying that any swap agreement is or is not a futures contract or commodity option for any purpose under the Commodity Exchange Act.

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**SEC. 313. [2 U.S.C. 1151] CONGRESSIONAL OFFICE FOR INTERNATIONAL LEADERSHIP. (a) ESTABLISHMENT.—**

(1) IN GENERAL.—There is established in the legislative branch of the Government an office to be known as the “Congressional Office for International Leadership” (the “Office”).

(2) BOARD OF TRUSTEES.—The Office shall be subject to the supervision and direction of a Board of Trustees (the “Board”) which shall be composed of 11 members as follows:

(A) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom shall be designated by the Majority Leader of the House of Representatives and one of whom shall be designated by the Minority Leader of the House of Representatives.

(B) Two Senators appointed by the President pro tempore of the Senate, one of whom shall be designated by the Majority Leader of the Senate and one of whom shall be designated by the Minority Leader of the Senate.

(C) The Librarian of Congress.

(D) Four private individuals with interests in improving relations between the United States and eligible foreign states, designated by the Librarian of Congress.

(E) The chair of the Subcommittee on Legislative Branch of the Committee on Appropriations of the House of Representatives and the chair of the Subcommittee on Legislative Branch of the Committee on Appropriations of the Senate.

Each member appointed under this paragraph shall serve for a term of 3 years. Any vacancy shall be filled in the same manner as the original appointment and the individual so appointed shall serve for the remainder of the term. Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(b) PURPOSE AND AUTHORITY OF THE CENTER.—

(1) PURPOSE.—The purpose of the Office is to establish, in accordance with the provisions of paragraph (2), a program to enable emerging political and civic leaders of eligible foreign states at all levels of government to gain significant, firsthand exposure to the American free market economic system and the operation of American democratic institutions through visits to governments and communities at comparable levels in the United States and to establish and administer a program to enable cultural leaders of Russia to gain significant, firsthand exposure to the operation of American cultural institutions.

(2) GRANT PROGRAM.—Subject to the provisions of paragraphs (3) and (4), the Office shall establish a program under which the Office annually awards grants to government or community organizations in the United States that seek to establish programs under which those organizations will host nationals of eligible foreign states who are emerging political and civic leaders at any level of government.

(3) RESTRICTIONS.—

(A) DURATION.—The period of stay in the United States for any individual supported with grant funds under the program shall not exceed 30 days.

(B) LIMITATION.—The number of individuals supported with grant funds under the program shall not exceed 3,500 in any fiscal year.

(C) USE OF FUNDS.—Grant funds under the program shall be used to pay—

(i) the costs and expenses incurred by each program participant in traveling between an eligible foreign state and the United States and in traveling within the United States;

(ii) the costs of providing lodging in the United States to each program participant, whether in public accommodations or in private homes; and

(iii) such additional administrative expenses incurred by organizations in carrying out the program as the Office may prescribe.

(4) APPLICATION.—

(A) IN GENERAL.—Each organization in the United States desiring a grant under this section shall submit an application to the Office at such time, in such manner, and accompanied by such information as the Office may reasonably require.

(B) CONTENTS.—Each application submitted pursuant to subparagraph (A) shall—

- (i) describe the activities for which assistance under this section is sought;
- (ii) include the number of program participants to be supported;
- (iii) describe the qualifications of the individuals who will be participating in the program; and
- (iv) provide such additional assurances as the Office determines to be essential to ensure compliance with the requirements of this section.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the “Congressional Office for International Leadership Fund” (the “Fund”), which shall consist of amounts which may be appropriated, credited, or transferred to it under this section.

(2) DONATIONS.—Any money or other property donated, bequeathed, or devised to the Office under the authority of this section shall be credited to the Fund.

(3) FUND MANAGEMENT.—

(A) IN GENERAL.—The provisions of subsections (b), (c), and (d) of section 116 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 1105 (b), (c), and (d)), and the provisions of section 117(b) of such Act (2 U.S.C. 1106(b)), shall apply to the Fund.

(B) EXPENDITURES.—The Secretary of the Treasury is authorized to pay to the Office from amounts in the Fund such sums as the Board determines are necessary and appropriate to enable the Office to carry out the provisions of this section.

(d) EXECUTIVE DIRECTOR.—On behalf of the Board, the Librarian of Congress shall appoint an Executive Director who shall be the chief executive officer of the Office and who shall carry out the functions of the Office subject to the supervision and direction of the Board of Trustees. The Executive Director of the Office shall be compensated at the annual rate specified by the Board, but in no event shall such rate exceed level III of the Executive Schedule under section 5314 of title 5, United States Code.

(e) ADMINISTRATIVE PROVISIONS.—

(1) IN GENERAL.—The provisions of section 119 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 1108) shall apply to the Office.

(2) SUPPORT PROVIDED BY LIBRARY OF CONGRESS.—The Library of Congress may disburse funds appropriated to the Office, compute and disburse the basic pay for all personnel of the Office, provide administrative, legal, financial management, and other appropriate services to the Office, and collect from the Fund the full costs of providing services under this

paragraph, as provided under an agreement for services ordered under sections 1535 and 1536 of title 31, United States Code. (f) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(g) TRANSFER OF FUNDS.—Any amounts appropriated for use in the program established under section 3011 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31; 113 Stat. 93) shall be transferred to the Fund and shall remain available without fiscal year limitation.

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—This section shall take effect on the date of enactment of this Act.

(2) TRANSFER.—Subsection (g) shall only apply to amounts which remain unexpended on and after the date the Board of Trustees of the Center<sup>1</sup> certifies to the Librarian of Congress that grants are ready to be made under the program established under this section.

(j) ELIGIBLE FOREIGN STATE DEFINED.—In this section, the term “eligible foreign state” means—

(1) any country specified in section 3 of the FREEDOM Support Act (22 U.S.C. 5801);

(2) Estonia, Latvia, and Lithuania; and

(3) any other country that is designated by the Board, except that the Board shall notify the Committees on Appropriations of the Senate and the House of Representatives of the designation at least 90 days before the designation is to take effect.

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## TITLE IV—REGULATORY RESPONSIBILITY FOR BANK PRODUCTS<sup>2</sup>

### SEC. 401. [7 U.S.C. 1 note] SHORT TITLE.

This title may be cited as the “Legal Certainty for Bank Products Act of 2000”.

### SEC. 402. [7 U.S.C. 27] DEFINITIONS.

(a) BANK.—In this title, the term “bank” means—

(1) any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act);

(2) any foreign bank or branch or agency of a foreign bank (each as defined in section 1(b) of the International Banking Act of 1978);

(3) any Federal or State credit union (as defined in section 101 of the Federal Credit Union Act);

(4) any corporation organized under section 25A of the Federal Reserve Act;

<sup>1</sup> The reference to “the Center” in subsection (h)(2) probably should be “the Office”.

<sup>2</sup> This title, as contained in Appendix E (H.R. 5660; 114 Stat. 2763A-365) of Public Law 106-554 (entitled the Commodity Futures Modernization Act of 2000), was enacted into law by the reference made in section 1(a)(5) of such public law (114 Stat. 2763).

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(5) any corporation operating under section 25 of the Federal Reserve Act;

(6) any trust company; or

(7) any subsidiary of any entity described in paragraph (1) through (6) of this subsection, if the subsidiary is regulated as if the subsidiary were part of the entity and is not a broker or dealer (as such terms are defined in section 3 of the Securities Exchange Act of 1934) or a futures commission merchant (as defined in section 1a) of the Commodity Exchange Act).

(b) IDENTIFIED BANKING PRODUCT.—In this title, the term “identified banking product” shall have the same meaning as in paragraphs (1) through (5) of section 206(a) of the Gramm-Leach-Bliley Act, except that in applying such section for purposes of this title—

(1) the term “bank” shall have the meaning given in subsection (a) of this section; and

(2) the term “qualified investor” means eligible contract participant (as defined in section 1a of the Commodity Exchange Act, as in effect on the date of the enactment of the Commodity Futures Modernization Act of 2000).

(c) HYBRID INSTRUMENT.—In this title, the term “hybrid instrument” means an identified banking product not excluded by section 403 of this Act, offered by a bank, having one or more payments indexed to the value, level, or rate of, or providing for the delivery of, one or more commodities (as defined in section 1a of the Commodity Exchange Act).

**SEC. 403. [7 U.S.C. 27a] EXCLUSION OF IDENTIFIED BANKING PRODUCT.**

(a) EXCLUSION.—Except as provided in subsection (b) or (c)—

(1) the Commodity Exchange Act (7 U.S.C. 1 et seq.) shall not apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority under the Commodity Exchange Act (7 U.S.C. 1 et seq.) with respect to, an identified banking product; and

(2) the definitions of “security-based swap” in section 3(a)(68) of the Securities Exchange Act of 1934 and “security-based swap agreement” in section 1a(47)(A)(v) of the Commodity Exchange Act and section 3(a)(78) of the Securities Exchange Act of 1934 do not include any identified bank product.

(b) EXCEPTION.—An appropriate Federal banking agency may except an identified banking product of a bank under its regulatory jurisdiction from the exclusion in subsection (a) if the agency determines, in consultation with the Commodity Futures Trading Commission and the Securities and Exchange Commission, that the product—

(1) would meet the definition of a “swap” under section 1a(47) of the Commodity Exchange Act (7 U.S.C. 1a) or a “security-based swap” under that section 3(a)(68) of the Securities Exchange Act of 1934; and

(2) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securi-

ties Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

(c) EXCEPTION.—The exclusions in subsection (a) shall not apply to an identified bank product that—

(1) is a product of a bank that is not under the regulatory jurisdiction of an appropriate Federal banking agency;

(2) meets the definition of swap in section 1a(47) of the Commodity Exchange Act or security-based swap in section 3(a)(68) of the Securities Exchange Act of 1934; and

(3) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

**[Section 404 was repealed by section 725(g)(1)(A) of Public Law 111-203.]**

**SEC. 405. [7 U.S.C. 27c] EXCLUSION OF CERTAIN OTHER IDENTIFIED BANKING PRODUCTS.**

(a) IN GENERAL.—No provision of the Commodity Exchange Act shall apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority with respect to, a banking product if the product is a hybrid instrument that is predominantly a banking product under the predominance test set forth in subsection (b).

(b) PREDOMINANCE TEST.—A hybrid instrument shall be considered to be predominantly a banking product for purposes of this section if—

(1) the issuer of the hybrid instrument receives payment in full of the purchase price of the hybrid instrument substantially contemporaneously with delivery of the hybrid instrument;

(2) the purchaser or holder of the hybrid instrument is not required to make under the terms of the instrument, or any arrangement referred to in the instrument, any payment to the issuer in addition to the purchase price referred to in paragraph (1), whether as margin, settlement payment, or otherwise during the life of the hybrid instrument or at maturity;

(3) the issuer of the hybrid instrument is not subject by the terms of the instrument to mark-to-market margining requirements; and

(4) the hybrid instrument is not marketed as a contract of sale of a commodity for future delivery (or option on such a contract) subject to the Commodity Exchange Act.

(c) MARK-TO-MARKET MARGINING REQUIREMENT.—For purposes of subsection (b)(3), mark-to-market margining requirements shall not include the obligation of an issuer of a secured debt instrument to increase the amount of collateral held in pledge for the benefit of the purchaser of the secured debt instrument to secure the repayment obligations of the issuer under the secured debt instrument.

**SEC. 406. [7 U.S.C. 27d] ADMINISTRATION OF THE PREDOMINANCE TEST.**

(a) IN GENERAL.—No provision of the Commodity Exchange Act shall apply to, and the Commodity Futures Trading Commission shall not regulate, a hybrid instrument, unless the Commission determines, by or under a rule issued in accordance with this section, that—

- (1) the action is necessary and appropriate in the public interest;
- (2) the action is consistent with the Commodity Exchange Act and the purposes of the Commodity Exchange Act; and
- (3) the hybrid instrument is not predominantly a banking product under the predominance test set forth in section 405(b) of this Act.

(b) CONSULTATION.—Before commencing a rulemaking or making a determination pursuant to a rule issued under this title, the Commodity Futures Trading Commission shall consult with and seek the concurrence of the Board of Governors of the Federal Reserve System concerning—

- (1) the nature of the hybrid instrument; and
- (2) the history, purpose, extent, and appropriateness of the regulation of the hybrid instrument under the Commodity Exchange Act and under appropriate banking laws.

(c) OBJECTION TO COMMISSION REGULATION.—

(1) FILING OF PETITION FOR REVIEW.—The Board of Governors of the Federal Reserve System may obtain review of any rule or determination referred to in subsection (a) in the United States Court of Appeals for the District of Columbia Circuit by filing in the court, not later than 60 days after the date of publication of the rule or determination, a written petition requesting that the rule or determination be set aside. Any proceeding to challenge any such rule or determination shall be expedited by the court.

(2) TRANSMITTAL OF PETITION AND RECORD.—A copy of a petition described in paragraph (1) shall be transmitted as soon as possible by the Clerk of the court to an officer or employee of the Commodity Futures Trading Commission designated for that purpose. Upon receipt of the petition, the Commission shall file with the court the rule or determination under review and any documents referred to therein, and any other relevant materials prescribed by the court.

(3) EXCLUSIVE JURISDICTION.—On the date of the filing of a petition under paragraph (1), the court shall have jurisdiction, which shall become exclusive on the filing of the materials set forth in paragraph (2), to affirm and enforce or to set aside the rule or determination at issue.

(4) STANDARD OF REVIEW.—The court shall determine to affirm and enforce or set aside a rule or determination of the Commodity Futures Trading Commission under this section, based on the determination of the court as to whether—

- (A) the subject product is predominantly a banking product; and
- (B) making the provision or provisions of the Commodity Exchange Act at issue applicable to the subject in-

strument is appropriate in light of the history, purpose, and extent of regulation under such Act, this title, and under the appropriate banking laws, giving deference neither to the views of the Commodity Futures Trading Commission nor the Board of Governors of the Federal Reserve System.

(5) JUDICIAL STAY.—The filing of a petition by the Board pursuant to paragraph (1) shall operate as a judicial stay, until the date on which the determination of the court is final (including any appeal of the determination).

(6) OTHER AUTHORITY TO CHALLENGE.—Any aggrieved party may seek judicial review pursuant to section 6(c) of the Commodity Exchange Act of a determination or rulemaking by the Commodity Futures Trading Commission under this section.

**[Section 407 was repealed by section 725(g)(1)(A) of Public Law 111-203.]**

**SEC. 408. [7 U.S.C. 27f] CONTRACT ENFORCEMENT.**

(a) HYBRID INSTRUMENTS.—No hybrid instrument shall be void, voidable, or unenforceable, and no party to a hybrid instrument shall be entitled to rescind, or recover any payment made with respect to, a hybrid instrument under any provision of Federal or State law, based solely on the failure of the hybrid instrument to satisfy the predominance test set forth in section 405(b) of this Act or to comply with the terms or conditions of an exemption or exclusion from any provision of the Commodity Exchange Act or any regulation of the Commodity Futures Trading Commission.

(b) PREEMPTION.—This title shall supersede and preempt the application of any State or local law that prohibits or regulates gaming or the operation of bucket shops (other than antifraud provisions of general applicability) in the case of a hybrid instrument that is predominantly a banking product.

## **TITLE V—LOWER MISSISSIPPI RIVER REGION<sup>3</sup>**

**SEC. 501. [7 U.S.C. 1921 note] SHORT TITLE.**

This title may be cited as the “Delta Regional Authority Act of 2000”.

**SEC. 502. [7 U.S.C. 2009aa note] FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the lower Mississippi River region (referred to in this title as the “region”), though rich in natural and human resources, lags behind the rest of the United States in economic growth and prosperity;

(2) the region suffers from a greater proportion of measurable poverty and unemployment than any other region of the United States;

(3) the greatest hope for economic growth and revitalization in the region lies in the development of transportation in-

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<sup>3</sup>This is part of appendix D.

frastructure, creation of jobs, expansion of businesses, and development of entrepreneurial local economies;

(4) the economic progress of the region requires an adequate transportation and physical infrastructure, a skilled and trained workforce, and greater opportunities for enterprise development and entrepreneurship;

(5) a concerted and coordinated effort among Federal, State, and local agencies, the private sector, and nonprofit groups is needed if the region is to achieve its full potential for economic development;

(6) economic development planning on a regional or multi-county basis offers the best prospect for achieving the maximum benefit from public and private investments; and

(7) improving the economy of the region requires a special emphasis on areas of the region that are most economically distressed.

(b) PURPOSES.—The purposes of this title are—

(1) to promote and encourage the economic development of the region—

(A) to ensure that the communities and people in the region have the opportunity for economic development; and

(B) to ensure that the economy of the region reaches economic parity with that of the rest of the United States;

(2) to establish a formal framework for joint Federal-State collaboration in meeting and focusing national attention on the economic development needs of the region;

(3) to assist the region in obtaining the transportation and basic infrastructure, skills training, and opportunities for economic development that are essential for strong local economies;

(4) to foster coordination among all levels of government, the private sector, and nonprofit groups in crafting common regional strategies that will lead to broader economic growth;

(5) to strengthen efforts that emphasize regional approaches to economic development and planning;

(6) to encourage the participation of interested citizens, public officials, agencies, and others in developing and implementing local and regional plans for broad-based economic and community development; and

(7) to focus special attention on areas of the region that suffer from the greatest economic distress.

**SEC. 503. DELTA REGIONAL AUTHORITY.**

【Amends the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) by adding at the end a new subtitle F, which appears elsewhere in this compilation.】

**SEC. 504. AREA COVERED BY LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION.<sup>4</sup>**

(a) IN GENERAL.—【Amends section 4(2)(D) of the Delta Development Act (42 U.S.C. 3121 note; 102 Stat. 2246).】

<sup>4</sup> The amendment by section 153(b) of Public Law 106-554 (114 Stat. 2763A-252) which attempts to insert a new paragraph (4) at the end of section 382A of the “Delta Regional Authority Act of 2000”, probably should have been made to such section of the Consolidated Farm and Rural Development Act.

(b) CONFORMING AMENDMENT.—[Amends the matter under the heading “SALARIES AND EXPENSES” under the heading “Farmers Home Administration” in title II of Public Law 100–460 (102 Stat. 2246).]

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**SEC. 542. [42 U.S.C. 1395w-4 Note] TREATMENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES UNDER MEDICARE.**

(a) IN GENERAL.—When an independent laboratory furnishes the technical component of a physician pathology service to a fee-for-service medicare beneficiary who is an inpatient or outpatient of a covered hospital, the Secretary of Health and Human Services shall treat such component as a service for which payment shall be made to the laboratory under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) and not as an inpatient hospital service for which payment is made to the hospital under section 1886(d) of such Act (42 U.S.C. 1395ww(d)) or as an outpatient hospital service for which payment is made to the hospital under section 1833(t) of such Act (42 U.S.C. 1395l(t)).

(b) DEFINITIONS.—For purposes of this section:

(1) COVERED HOSPITAL.—The term “covered hospital” means, with respect to an inpatient or an outpatient, a hospital that had an arrangement with an independent laboratory that was in effect as of July 22, 1999, under which a laboratory furnished the technical component of physician pathology services to fee-for-service medicare beneficiaries who were hospital inpatients or outpatients, respectively, and submitted claims for payment for such component to a medicare carrier (that has a contract with the Secretary under section 1842 of the Social Security Act, 42 U.S.C. 1395u) and not to such hospital.

(2) FEE-FOR-SERVICE MEDICARE BENEFICIARY.—The term “fee-for-service medicare beneficiary” means an individual who—

(A) is entitled to benefits under part A, or enrolled under part B, or both, of such title; and

(B) is not enrolled in any of the following:

(i) A Medicare+Choice plan under part C of such title.

(ii) A plan offered by an eligible organization under section 1876 of such Act (42 U.S.C. 1395mm).

(iii) A program of all-inclusive care for the elderly (PACE) under section 1894 of such Act (42 U.S.C. 1395eee).

(iv) A social health maintenance organization (SHMO) demonstration project established under section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

(c) EFFECTIVE DATE.—This section shall apply to services furnished during the 2-year period beginning on January 1, 2001, and for services furnished during 2005, 2006, 2007, 2008, 2009, 2010, 2011, and the first six months of 2012.

(d) GAO REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study of the effects of the previous provisions

of this section on hospitals and laboratories and access of fee-for-service medicare beneficiaries to the technical component of physician pathology services.

(2) REPORT.—Not later than April 1, 2002, the Comptroller General shall submit to Congress a report on such study. The report shall include recommendations about whether such provisions should be extended after the end of the period specified in subsection (c) for either or both inpatient and outpatient hospital services, and whether the provisions should be extended to other hospitals.

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## **TITLE VIII—ERIE CANALWAY NATIONAL HERITAGE CORRIDOR**

### **SEC. 801. SHORT TITLE; DEFINITIONS.<sup>5</sup>**

(a) SHORT TITLE.—This title may be cited as the “Erie Canalway National Heritage Corridor Act”.

(b) DEFINITIONS.—For the purposes of this title, the following definitions shall apply:

(1) ERIE CANALWAY.—The term “Erie Canalway” means the 524 miles of navigable canal that comprise the New York State Canal System, including the Erie, Cayuga and Seneca, Oswego, and Champlain Canals and the historic alignments of these canals, including the cities of Albany and Buffalo.

(2) CANALWAY PLAN.—The term “Canalway Plan” means the comprehensive preservation and management plan for the Corridor required under section 806.

(3) COMMISSION.—The term “Commission” means the Erie Canalway National Heritage Corridor Commission established under section 804.

(4) CORRIDOR.—The term “Corridor” means the Erie Canalway National Heritage Corridor established under section 803.

(5) GOVERNOR.—The term “Governor” means the Governor of the State of New York.

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

### **SEC. 802. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds that—

(1) the year 2000 marks the 175th Anniversary of New York State’s creation and stewardship of the Erie Canalway for commerce, transportation, and recreational purposes, establishing the network which made New York the “Empire State” and the Nation’s premier commercial and financial center;

(2) the canals and adjacent areas that comprise the Erie Canalway are a nationally significant resource of historic and recreational value, which merit Federal recognition and assistance;

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<sup>5</sup> Title VIII of this Act appears in 16 U.S.C. 461 note and is part of appendix D.

(3) the Erie Canalway was instrumental in the establishment of strong political and cultural ties between New England, upstate New York, and the old Northwest and facilitated the movement of ideas and people ensuring that social reforms like the abolition of slavery and the women's rights movement spread across upstate New York to the rest of the country;

(4) the construction of the Erie Canalway was considered a supreme engineering feat, and most American canals were modeled after New York State's canal;

(5) at the time of construction, the Erie Canalway was the largest public works project ever undertaken by a State, resulting in the creation of critical transportation and commercial routes to transport passengers and goods;

(6) the Erie Canalway played a key role in turning New York City into a major port and New York State into the pre-eminent center for commerce, industry, and finance in North America and provided a permanent commercial link between the Port of New York and the cities of eastern Canada, a cornerstone of the peaceful relationship between the two countries;

(7) the Erie Canalway proved the depth and force of American ingenuity, solidified a national identity, and found an enduring place in American legend, song, and art;

(8) there is national interest in the preservation and interpretation of the Erie Canalway's important historical, natural, cultural, and scenic resources; and

(9) partnerships among Federal, State, and local governments and their regional entities, nonprofit organizations, and the private sector offer the most effective opportunities for the preservation and interpretation of the Erie Canalway.

(b) PURPOSES.—The purposes of this title are—

(1) to designate the Erie Canalway National Heritage Corridor;

(2) to provide for and assist in the identification, preservation, promotion, maintenance, and interpretation of the historical, natural, cultural, scenic, and recreational resources of the Erie Canalway in ways that reflect its national significance for the benefit of current and future generations;

(3) to promote and provide access to the Erie Canalway's historical, natural, cultural, scenic, and recreational resources;

(4) to provide a framework to assist the State of New York, its units of local government, and the communities within the Erie Canalway in the development of integrated cultural, historical, recreational, economic, and community development programs in order to enhance and interpret the unique and nationally significant resources of the Erie Canalway; and

(5) to authorize Federal financial and technical assistance to the Commission to serve these purposes for the benefit of the people of the State of New York and the Nation.

**SEC. 803. THE ERIE CANALWAY NATIONAL HERITAGE CORRIDOR.**

(a) ESTABLISHMENT.—To carry out the purposes of this title there is established the Erie Canalway National Heritage Corridor in the State of New York.

(b) **BOUNDARIES.**—The boundaries of the Corridor shall include those lands generally depicted on a map entitled “Erie Canalway National Heritage Area” numbered ERIE/80,000 and dated October 2000. This map shall be on file and available for public inspection in the appropriate office of the National Park Service, the office of the Commission, and the office of the New York State Canal Corporation in Albany, New York.

(c) **OWNERSHIP AND OPERATION OF THE NEW YORK STATE CANAL SYSTEM.**—The New York State Canal System shall continue to be owned, operated, and managed by the State of New York.

**SEC. 804. THE ERIE CANALWAY NATIONAL HERITAGE CORRIDOR COMMISSION.**

(a) **ESTABLISHMENT.**—There is established the Erie Canalway National Heritage Corridor Commission. The purpose of the Commission shall be—

(1) to work with Federal, State, and local authorities to develop and implement the Canalway Plan; and

(2) to foster the integration of canal-related historical, cultural, recreational, scenic, economic, and community development initiatives within the Corridor.

(b) **MEMBERSHIP.**—The Commission shall be composed of at least 21 members, but not more than 27 members as follows:

(1) The Secretary of the Interior, ex officio or the Secretary's designee.

(2) Seven members, appointed by the Secretary after consideration of recommendations submitted by the Governor and other appropriate officials, with knowledge and experience of the following agencies or those agencies' successors: The New York State Secretary of State, the New York State Department of Environmental Conservation, the New York State Office of Parks, Recreation and Historic Preservation, the New York State Department of Agriculture and Markets, the New York State Department of Transportation, and the New York State Canal Corporation, and the Empire State Development Corporation.

(3) The remaining members who reside within the Corridor and are geographically dispersed throughout the Corridor shall be from local governments and the private sector with knowledge of tourism, economic and community development, regional planning, historic preservation, cultural or natural resource management, conservation, recreation, and education or museum services. These members will be appointed by the Secretary as follows:

(A) Two members based on a recommendation from each United States Senator from New York State.

(B) Six members who shall be residents of any county constituting the Corridor.

(C) The remaining members shall be—

(i) appointed by the Secretary, based on recommendations from each member of the House of Representatives, the district of which encompasses the Corridor; and

(ii) persons that are residents of, or employed within, the applicable congressional districts.

(c) APPOINTMENTS AND VACANCIES.—Members of the Commission other than ex officio members shall be appointed for terms of 3 years. Of the original appointments, six shall be for a term of 1 year, six shall be for a term of 2 years, and seven shall be for a term of 3 years. Any member of the Commission appointed for a definite term may serve after expiration of the term until the successor of the member is appointed. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(d) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission. Members of the Commission, other than employees of the State and Canal Corporation, while away from their homes or regular places of business to perform services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed under section 5703 of title 5, United States Code.

(e) ELECTION OF OFFICES.—The Commission shall elect the chairperson and the vice chairperson on an annual basis. The vice chairperson shall serve as the chairperson in the absence of the chairperson.

(f) Quorum and Voting.—A majority of the serving Commissioners shall constitute a quorum but a lesser number may hold hearings. Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, however, any member voting by proxy shall not be considered present for purposes of establishing a quorum. For the transaction of any business or the exercise of any power of the Commission, the Commission shall have the power to act by a majority vote of the members present at any meeting at which a quorum is in attendance.

(g) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or a majority of the serving Commissioners. Notice of Commission meetings and agendas for the meeting shall be published in local newspapers throughout the Corridor. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(h) POWERS OF THE COMMISSION.—To the extent that Federal funds are appropriated, the Commission is authorized—

(1) to procure temporary and intermittent services and administrative facilities at rates determined to be reasonable by the Commission to carry out the responsibilities of the Commission;

(2) to request and accept the services of personnel detailed from the State of New York or any political subdivision, and to reimburse the State or political subdivision for such services;

(3) to request and accept the services of any Federal agency personnel, and to reimburse the Federal agency for such services;

(4)(A) to appoint any staff that may be necessary to carry out the duties of the Commission, subject to the provisions of

title 5, United States Code, relating to appointments in the competitive service; and

(B) to fix the compensation of the staff, in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of positions and General Schedule pay rates;

(5) to enter into cooperative agreements with the State of New York, with any political subdivision of the State, or any person for the purposes of carrying out the duties of the Commission;

(6) to make grants to assist in the preparation and implementation of the Canalway Plan;

(7) to seek, accept, and dispose of gifts, bequests, grants, or donations of money, personal property, or services, received from any source. For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift to the Commission shall be deemed to be a gift to the United States;

(8) to assist others in developing educational, informational, and interpretive programs and facilities, and other such activities that may promote the implementation of the Canalway Plan;

(9) to hold hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may consider appropriate; the Commission may not issue subpoenas or exercise any subpoena authority;

(10) to use the United States mails in the same manner as other departments or agencies of the United States;

(11) to request and receive from the Administrator of General Services, on a reimbursable basis, such administrative support services as the Commission may request; and

(12) to establish such advisory groups as the Commission deems necessary.

(i) ACQUISITION OF PROPERTY.—Except as provided for leasing administrative facilities under section 804(h)(1), the Commission may not acquire any real property or interest in real property.

(j) TERMINATION.—The Commission shall terminate on September 30, 2037.

#### SEC. 805. DUTIES OF THE COMMISSION.

(a) PREPARATION OF CANALWAY PLAN.—Not later than 3 years after the Commission receives Federal funding for this purpose, the Commission shall prepare and submit a comprehensive preservation and management Canalway Plan for the Corridor to the Secretary and the Governor for review and approval. In addition to the requirements outlined for the Canalway Plan in section 806, the Canalway Plan shall incorporate and integrate existing Federal, State, and local plans to the extent appropriate regarding historic preservation, conservation, education and interpretation, community development, and tourism-related economic development for the Corridor that are consistent with the purpose of this title. The Commission shall solicit public comment on the development of the Canalway Plan.

(b) IMPLEMENTATION OF CANALWAY PLAN.—After the Commission receives Federal funding for this purpose, and after review

and upon approval of the Canalway Plan by the Secretary and the Governor, the Commission shall—

(1) undertake action to implement the Canalway Plan so as to assist the people of the State of New York in enhancing and interpreting the historical, cultural, educational, natural, scenic, and recreational potential of the Corridor identified in the Canalway Plan; and

(2) support public and private efforts in conservation and preservation of the Canalway's cultural and natural resources and economic revitalization consistent with the goals of the Canalway Plan.

(c) PRIORITY ACTIONS.—Priority actions which may be carried out by the Commission under section 805(b), include—

(1) assisting in the appropriate preservation treatment of the remaining elements of the original Erie Canal;

(2) assisting State, local governments, and nonprofit organizations in designing, establishing, and maintaining visitor centers, museums, and other interpretive exhibits in the Corridor;

(3) assisting in the public awareness and appreciation for the historic, cultural, natural, scenic, and recreational resources and sites in the Corridor;

(4) assisting the State of New York, local governments, and nonprofit organizations in the preservation and restoration of any historic building, site, or district in the Corridor;

(5) encouraging, by appropriate means, enhanced economic development in the Corridor consistent with the goals of the Canalway Plan and the purposes of this title; and

(6) ensuring that clear, consistent signs identifying access points and sites of interest are put in place in the Corridor.

(d) ANNUAL REPORTS AND AUDITS.—For any year in which Federal funds have been received under this title, the Commission shall submit an annual report and shall make available an audit of all relevant records to the Governor and the Secretary identifying its expenses and any income, the entities to which any grants or technical assistance were made during the year for which the report was made, and contributions by other parties toward achieving Corridor purposes.

**SEC. 806. CANALWAY PLAN.**

(a) CANALWAY PLAN REQUIREMENTS.—The Canalway Plan shall—

(1) include a review of existing plans for the Corridor, including the Canal Recreationway Plan and Canal Revitalization Program, and incorporate them to the extent feasible to ensure consistency with local, regional, and State planning efforts;

(2) provide a thematic inventory, survey, and evaluation of historic properties that should be conserved, restored, developed, or maintained because of their natural, cultural, or historic significance within the Corridor in accordance with the regulations for the National Register of Historic Places;

(3) identify public and private-sector preservation goals and strategies for the Corridor;

(4) include a comprehensive interpretive plan that identifies, develops, supports, and enhances interpretation and education programs within the Corridor that may include—

(A) research related to the construction and history of the canals and the cultural heritage of the canal workers, their families, those that traveled along the canals, the associated farming activities, the landscape, and the communities;

(B) documentation of and methods to support the perpetuation of music, art, poetry, literature and folkways associated with the canals; and

(C) educational and interpretative programs related to the Erie Canalway developed in cooperation with State and local governments, educational institutions, and non-profit institutions;

(5) include a strategy to further the recreational development of the Corridor that will enable users to uniquely experience the canal system;

(6) propose programs to protect, interpret, and promote the Corridor's historical, cultural, recreational, educational, scenic, and natural resources;

(7) include an inventory of canal-related natural, cultural and historic sites and resources located in the Area;

(8) recommend Federal, State, and local strategies and policies to support economic development, especially tourism-related development and recreation, consistent with the purposes of the Corridor;

(9) develop criteria and priorities for financial preservation assistance;

(10) identify and foster strong cooperative relationships between the National Park Service, the New York State Canal Corporation, other Federal and State agencies, and nongovernmental organizations;

(11) recommend specific areas for development of interpretive, educational, and technical assistance centers associated with the Corridor; and

(12) contain a program for implementation of the Canalway Plan by all necessary parties.

(b) APPROVAL OF THE CANALWAY PLAN.—The Secretary and the Governor shall approve or disapprove the Canalway Plan not later than 90 days after receiving the Canalway Plan.

(c) CRITERIA.—The Secretary may not approve the plan unless the Secretary finds that the plan, if implemented, would adequately protect the significant historical, cultural, natural, and recreational resources of the Corridor and consistent with such protection provide adequate and appropriate outdoor recreational opportunities and economic activities within the Corridor. In determining whether or not to approve the Canalway Plan, the Secretary shall consider whether—

(1) the Commission has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the Canalway Plan; and

(2) the Secretary has received adequate assurances from the Governor and appropriate State officials that the rec-

ommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the Canalway Plan and such program will ensure effective implementation of State and local aspects of the Canalway Plan.

(d) DISAPPROVAL OF CANALWAY PLAN.—If the Secretary or the Governor do not approve the Canalway Plan, the Secretary or the Governor shall advise the Commission in writing within 90 days the reasons therefore and shall indicate any recommendations for revisions. Following completion of any necessary revisions of the Canalway Plan, the Secretary and the Governor shall have 90 days to either approve or disapprove of the revised Canalway Plan.

(e) AMENDMENTS TO CANALWAY PLAN.—The Secretary and the Governor shall review substantial amendments to the Canalway Plan. Funds appropriated pursuant to this title may not be expended to implement the changes made by such amendments until the Secretary and the Governor approve the amendments.

**SEC. 807. DUTIES OF THE SECRETARY.**

(a) IN GENERAL.—The Secretary is authorized to assist the Commission in the preparation of the Canalway Plan.

(b) TECHNICAL ASSISTANCE.—Pursuant to an approved Canalway Plan, the Secretary is authorized to enter into cooperative agreements with, provide technical assistance to and award grants to the Commission to provide for the preservation and interpretation of the natural, cultural, historical, recreational, and scenic resources of the Corridor, if requested by the Commission.

(c) EARLY ACTIONS.—Prior to approval of the Canalway Plan, with the approval of the Commission, the Secretary may provide technical and planning assistance for early actions that are important to the purposes of this title and that protect and preserve resources.

(d) CANALWAY PLAN IMPLEMENTATION.—Upon approval of the Canalway Plan, the Secretary is authorized to implement those activities that the Canalway Plan has identified that are the responsibility of the Secretary or agent of the Secretary to undertake in the implementation of the Canalway Plan.

(e) DETAIL.—Each fiscal year during the existence of the Commission and upon the request of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, two employees of the Department of the Interior to enable the Commission to carry out the Commission's duties. Such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(f) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Superintendent of Saratoga National Historical Park may, on request, provide to public and private organizations in the Corridor (including the Commission) any operational assistance that is appropriate to assist with the implementation of the Canalway Plan.

**SEC. 808. DUTIES OF OTHER FEDERAL ENTITIES.**

Any Federal entity conducting or supporting any activity directly affecting the Corridor, and any unit of Government acting

pursuant to a grant of Federal funds or a Federal permit or agreement conducting or supporting such activities may—

- (1) consult with the Secretary and the Commission with respect to such activities;
- (2) cooperate with the Secretary and the Commission in carrying out their duties under this title and coordinate such activities with the carrying out of such duties; and
- (3) conduct or support such activities in a manner consistent with the Canalway Plan unless the Federal entity, after consultation with the Secretary and the Commission, determines there is no practicable alternative.

**SEC. 809. SAVINGS PROVISIONS.**

(a) **AUTHORITY OF GOVERNMENTS.**—Nothing in this title shall be construed to modify, enlarge, or diminish any authority of the Federal, State, or local governments to regulate any use of land as provided for by law or regulation.

(b) **ZONING OR LAND.**—Nothing in this title shall be construed to grant powers of zoning or land use to the Commission.

(c) **LOCAL AUTHORITY AND PRIVATE PROPERTY.**—Nothing in this title shall be construed to affect or to authorize the Commission to interfere with—

- (1) the rights of any person with respect to private property;
- (2) any local zoning ordinance or land use plan of the State of New York or political subdivision thereof; or
- (3) any State or local canal-related development plans including but not limited to the Canal Recreationway Plan and the Canal Revitalization Program.

(d) **FISH AND WILDLIFE.**—The designation of the Corridor shall not be diminish the authority of the State of New York to manage fish and wildlife, including the regulation of fishing and hunting within the Corridor.

**SEC. 810. AUTHORIZATION OF APPROPRIATIONS.**

(a) **IN GENERAL.**—

(1) **CORRIDOR.**—There is authorized to be appropriated for the Corridor not more than \$1,000,000 for any fiscal year, to remain available until expended. Not more than a total of \$16,000,000 may be appropriated for the Corridor under this title.

(2) **MATCHING REQUIREMENT.**—Federal funding provided under this paragraph may not exceed 50 percent of the total cost of any activity carried out with such funds. The non-Federal share of such support may be in the form of cash, services, or in-kind contributions, fairly valued.

(b) **OTHER FUNDING.**—In addition to the sums authorized in subsection (a), there are authorized to be appropriated to the Secretary of the Interior such sums as are necessary for the Secretary for planning and technical assistance.

**SEC. 811. TERMINATION OF ASSISTANCE.**

The authority of the Secretary to provide financial assistance under this title shall terminate on September 30, 2037.

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