

and sections 1, 1a, 5, 5b, 6, 12, 13, 15, 15a, 17, 20, 27, 314, 1653, 1658, and 1659 of former Title 49, repealing sections 761 to 762 of this title, enacting provisions set out as notes under sections 745, 761, 791, and 793 of this title, sections 77c and 80a-3 of Title 15, and sections 1, 1a, 5b, 5c, 17, and 1654 of former Title 49, and amending notes set out under section 1651 of former Title 49] may be cited as the “Railroad Revitalization and Regulatory Reform Act of 1976”.

ACT REFERRED TO IN OTHER SECTIONS

The Railroad Revitalization and Regulatory Reform Act of 1976 is referred to in section 726 of this title; title 16 section 1247; title 49 section 24904.

§ 802. Definitions

As used in this Act, unless the context otherwise indicates, the term—

- (1) “Association” means the United States Railway Association;
- (2) “Commission” means the Interstate Commerce Commission;
- (3) “Corporation” means the Consolidated Rail Corporation;
- (4) “final system plan” means the final system plan and any additions thereto adopted by the Association pursuant to the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.);
- (5) “includes” and variants thereof should be read as if the phrase “but is not limited to” were also set forth;
- (6) “Office” means the Rail Services Planning Office of the Commission;
- (7) “railroad” means a rail carrier subject to part A of subtitle IV of title 49, and includes the National Railroad Passenger Corporation; and
- (8) “Secretary” means the Secretary of Transportation or his designated representative.

(Pub. L. 94-210, title I, § 102, Feb. 5, 1976, 90 Stat. 33; Pub. L. 97-468, title VI, § 615(b)(2), Jan. 14, 1983, 96 Stat. 2578; Pub. L. 104-88, title III, § 330(1), Dec. 29, 1995, 109 Stat. 953.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 94-210, Feb. 5, 1976, 90 Stat. 31, as amended, known as the Railroad Revitalization and Regulatory Reform Act of 1976. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Regional Rail Reorganization Act of 1973, referred to in par. (4), is Pub. L. 93-236, Jan. 2, 1974, 87 Stat. 985, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables.

AMENDMENTS

1995—Par. (7). Pub. L. 104-88 substituted “rail carrier subject to part A of subtitle IV of title 49” for “common carrier by railroad or express, as defined in section 1(3) of the Interstate Commerce Act (49 U.S.C. 1(3))”.

1983—Par. (7). Pub. L. 97-468 struck out “and the Alaska Railroad” before the semicolon at end.

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 701 of Title 49, Transportation.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-468 effective on date of transfer of Alaska Railroad to the State [Jan. 5, 1985],

pursuant to section 1203 of this title, see section 615(b) of Pub. L. 97-468.

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 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 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 701 of Title 49.

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

§ 803. Repealed. Pub. L. 97-449, § 7(b), Jan. 12, 1983, 96 Stat. 2443

Section, Pub. L. 94-210, title IX, § 905, Feb. 5, 1976, 90 Stat. 148, directed that no person in the United States be discriminated against on the basis of race, color, national origin, or sex with regard to any activity funded in whole or in part under this Act and provided for cut-off of funds to and civil action against any person who persisted in failure to comply. See section 306 of Title 49, Transportation.

SUBCHAPTER II—RAILROAD REHABILITATION AND IMPROVEMENT FINANCING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1003 of this title; title 49 section 306.

§ 821. Definitions

For purposes of this subchapter:

(1)(A) The term “cost” means the estimated long-term cost to the Government of a direct loan or loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

(i) Loan disbursements.

(ii) Repayments of principal.

(iii) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

Calculation of the cost of a direct loan shall include the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

(i) Payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments.

(ii) Payments to the Government, including origination and other fees, penalties, and recoveries.

Calculation of the cost of a loan guarantee shall include the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(2) The term “current” has the same meaning as in section 900(c)(9) of title 2.

(3) The term “direct loan” means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims.

(4) The term “direct loan obligation” means a binding agreement by the Secretary to make a direct loan when specified conditions are fulfilled by the borrower.

(5) The term “intermodal” means of or relating to the connection between rail service and other modes of transportation, including all parts of facilities at which such connection is made.

(6) The term “loan guarantee” means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(7) The term “loan guarantee commitment” means a binding agreement by the Secretary to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

(8) The term “modification” means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This

also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

(Pub. L. 94-210, title V, §501, as added Pub. L. 105-178, title VII, §7203(a)(1), June 9, 1998, 112 Stat. 471.)

PRIOR PROVISIONS

A prior section 821, Pub. L. 94-210, title V, §501, Feb. 5, 1976, 90 Stat. 66; Pub. L. 95-620, title VIII, §803(c)(1), Nov. 9, 1978, 92 Stat. 3347; Pub. L. 96-101, §24(b), Nov. 4, 1979, 93 Stat. 747; Pub. L. 96-448, title IV, §405(d), Oct. 14, 1980, 94 Stat. 1947; Pub. L. 97-35, title XI, §1162(b), Aug. 13, 1981, 95 Stat. 684; Pub. L. 99-509, title IV, §4033(c)(2), Oct. 21, 1986, 100 Stat. 1908, defined terms for purposes of this subchapter, prior to repeal by Pub. L. 105-178, title VII, §7203(a)(1), June 9, 1998, 112 Stat. 471.

SAVINGS PROVISION

Pub. L. 105-178, title VII, §7203(b)(2), June 9, 1998, 112 Stat. 477, provided that: “A transaction entered into under the authority of title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) before the date of enactment of this Act [June 9, 1998] shall be administered until completion under its terms as if this Act [see Tables for classification] were not enacted.”

§ 822. Direct loans and loan guarantees

(a) General authority

The Secretary may provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures that include at least 1 railroad.

(b) Eligible purposes

(1) In general

Direct loans and loan guarantees under this section shall be used to—

(A) acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings, and shops;

(B) refinance outstanding debt incurred for the purposes described in subparagraph (A); or

(C) develop or establish new intermodal or railroad facilities.

(2) Operating expenses not eligible

Direct loans and loan guarantees under this section shall not be used for railroad operating expenses.

(c) Priority projects

In granting applications for direct loans or guaranteed loans under this section, the Secretary shall give priority to projects that—

(1) enhance public safety;

(2) enhance the environment;

(3) promote economic development;

(4) enable United States companies to be more competitive in international markets;

(5) are endorsed by the plans prepared under section 135 of title 23 by the State or States in which they are located; or