

716, 720, 721, 743, 744, 771, 774, 775, 779, 823, 824, 825, 826, 829, 831, and 854 of this title, section 960 of Title 20, Education, sections 1a, 5, 5c, 13, 15, 17, 22, 26c, and 1653 of former Title 49, Transportation, and enacting provisions set out as notes under section 80a-3 of Title 15, Commerce and Trade, and sections 1a and 1654 of former Title 49] may be cited as the 'Rail Amendments of 1976'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94-5, §1, Feb. 28, 1975, 89 Stat. 7, provided: "That this Act [enacting section 794 of this title and amending sections 712, 715, 716, 717, 721, 723, 725, and 743 of this title] may be cited as the 'Regional Rail Reorganization Act Amendments of 1975'."

SHORT TITLE

Pub. L. 93-236, §1, Jan. 2, 1974, 87 Stat. 985, provided in part that this Act [enacting this chapter and amending section 856 of former Title 31, Money and Finance, and section 1(16) of former Title 49, Transportation], may be cited as the "Regional Rail Reorganization Act of 1973".

SEPARABILITY

Pub. L. 93-236, title VI, §604, Jan. 2, 1974, 87 Stat. 1023, provided that: "If any provision of this Act [enacting this chapter and amending section 856 of former Title 31, Money and Finance, and section 1(16) of former Title 49, Transportation] or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby."

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

See section 1341 of this title.

§ 702. Definitions

As used in this chapter, unless the context otherwise requires—

(1) "Association" means the United States Railway Association, established under section 711 of this title;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Commuter authority" means any State, local, or regional authority, corporation, or other entity established for purposes of providing commuter service, and includes the Metropolitan Transportation Authority, the Connecticut Department of Transportation, the Maryland Department of Transportation, the Southeastern Pennsylvania Transportation Authority, the New Jersey Transit Corporation, the Massachusetts Bay Transportation Authority, the Port Authority Trans-Hudson Corporation, any successor agencies, and any entity created by one or more such agencies for the purpose of operating, or contracting for the operation of, commuter service;

(4) "Commuter service" means short-haul rail passenger service operated in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations;

(5) "Corporation" means the Consolidated Rail Corporation required to be established under section 741 of this title or its successor by merger, consolidation or other form of suc-

cession carried out under applicable law for the purpose of changing the State of its incorporation;

(6) "effective date of the final system plan" means the date on which the final system plan or any revised final system plan is deemed approved by Congress, in accordance with section 718 of this title;

(7) "employee stock ownership plan" means a technique of corporate finance that uses a stock bonus trust or a company stock money purchase pension trust which qualifies under section 401(a) of title 26 in connection with the financing of corporate improvements, transfers in the ownership of corporate assets, and other capital requirements of a corporation and which is designed to build beneficial equity ownership of shares in the employer corporation into its employees substantially in proportion to their relative incomes, without requiring any cash outlay, any reduction in pay or other employee benefits, or the surrender of any other rights on the part of such employees;

(8) "final system plan" means the plan of reorganization for the restructure, rehabilitation, and modernization of railroads in reorganization prepared pursuant to section 716 of this title and approved pursuant to section 718 of this title;

(9) "Finance Committee" means the Finance Committee of the Board of Directors of the Association established under section 711(i)¹ of this title;

(10) "includes" and variants thereof should be read as if the phrase "but is not limited to" were also set forth;

(11) "local or regional transportation authority" includes a political subdivision of a State.²

(12) "Office" means the Rail Services Planning Office established under section 10361¹ of title 49;

(13) "profitable railroad" means a railroad which is not a railroad in reorganization. The term does not include the Corporation, the National Railroad Passenger Corporation, or a railroad leased, operated, or controlled by a railroad in reorganization in the region;

(14) "rail properties" means assets or rights owned, leased, or otherwise controlled by a railroad (or a person owned, leased, or otherwise controlled by a railroad) which are used or useful in rail transportation service; except that the term, when used in conjunction with the phrase "railroads leased, operated, or controlled by a railroad in reorganization", shall not include assets or rights owned, leased, or otherwise controlled by a Class I railroad which is not wholly owned, operated, or leased by a railroad in reorganization but is controlled by a railroad in reorganization;

(15) "railroad" means a rail carrier subject to part A of subtitle IV of title 49. The term includes the Corporation and the National Railroad Passenger Corporation;

(16) "railroad in reorganization" means a railroad which is subject to a bankruptcy pro-

¹ See References in Text note below.

² So in original. The period probably should be a semicolon.

ceeding and which has not been determined by a court to be reorganizable or not subject to reorganization pursuant to this chapter as prescribed in section 717(b) of this title. A “bankruptcy proceeding” includes a proceeding pursuant to section 77 of the Bankruptcy Act and an equity receivership or equivalent proceeding;

(17) “Region” means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, and Illinois; the District of Columbia; and those portions of contiguous States in which are located rail properties owned or operated by railroads doing business primarily in the aforementioned jurisdictions (as determined by the Commission by order);

(17A) “sale date” means the date on which the initial public offering of the securities of the Corporation is closed under the Conrail Privatization Act [45 U.S.C. 1301 et seq.];

(18) “Secretary” means the Secretary of Transportation or the designated representative of the Secretary;

(19) “State” means any State or the District of Columbia;

(20) “subsidiary” means any corporation 100 percent of whose total combined voting shares are, directly or indirectly, owned or controlled by the Corporation; and

(21) “supplemental transaction” means any transaction set forth in a proposal under section 745 of this title under which the Corporation or a subsidiary thereof would (A) acquire rail properties not designated for transfer or conveyance to it under the final system plan, (B) convey rail properties to a profitable railroad, a subsidiary of the Corporation or, other than as designated in the final system plan, to the National Railroad Passenger Corporation or to a State or a local or regional transportation authority, or to any other responsible person for use in providing rail service, or (C) enter into contractual or other arrangements with any person for the joint use of rail properties or the coordination or separation of rail operations or services.

(Pub. L. 93-236, title I, §102, Jan. 2, 1974, 87 Stat. 986; Pub. L. 94-210, title VI, §§601(f), (g), 603(c), 607(t), 610(a), Feb. 5, 1976, 90 Stat. 86, 88, 98, 100; Pub. L. 94-248, §1, Mar. 25, 1976, 90 Stat. 286; Pub. L. 94-555, title II, §211(a), Oct. 19, 1976, 90 Stat. 2624; Pub. L. 96-448, title V, §508(b), title VI, §601(b), Oct. 14, 1980, 94 Stat. 1957, 1958; Pub. L. 97-35, title XI, §1135(b), Aug. 13, 1981, 95 Stat. 646; Pub. L. 99-509, title IV, §4033(b)(1), Oct. 21, 1986, 100 Stat. 1908; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 104-88, title III, §327(1), Dec. 29, 1995, 109 Stat. 951.)

Editorial Notes

REFERENCES IN TEXT

Section 711(i) of this title, referred to in par. (9), which related to the Finance Committee of the Board of Directors of the Association, was repealed by Pub. L. 97-35, title XI, §1147, Aug. 13, 1981, 95 Stat. 673.

Section 10361 of title 49, referred to in par. (12), 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 par. (12) “section 10361 of title 49” was substituted for “section 205 of this Act”, meaning section 205 of Pub. L. 93-236, on authority of Pub. L. 95-473, §3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§10101 et seq.) of Title 49.

Section 77 of the Bankruptcy Act, referred to in par. (16), was classified to section 205 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended) was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted revised Title 11. For current provisions relating to railroad reorganization, see subchapter IV (§1161 et seq.) of chapter 11 of Title 11.

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

CODIFICATION

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1995 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-448 effective Oct. 1, 1980, see section 710(a) of Pub. L. 96-448, set out as a note under section 1170 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1976 AMENDMENT

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

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND TRANSFER OF FUNCTIONS

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

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

See section 1341 of this title.

APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT

Application of National Environmental Policy Act to actions of Commission not affected by title VI of Pub. L. 94-210, see section 619 of Pub. L. 94-210, set out as a note under section 791 of this title.

SUBCHAPTER II—UNITED STATES RAILWAY ASSOCIATION

§ 711. Formation and structure

(a) Establishment

There is established, in accordance with the provisions of this section, an incorporated nonprofit association to be known as the United States Railway Association.

(b) Administration

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

(c) Status

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

(d) Board of Directors

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

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

(B) The Secretary of Transportation.

(C) The Comptroller General of the United States.

(D) The Chairman of the Commission.

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

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

(e) Term of office

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

(f) Quorum

Three members of the Board of Directors, or their representatives, shall constitute a quorum