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The authoritative text is the United States Statutes at Large.**

One Hundred Second Congress, Session II
Public Law 102-365 — 106 Stat. 972 (H.R. 2607)
September 3, 1992

AN ACT *To authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 through 1994, and for other purposes.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

## SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Enforcement and Review Act".

## SEC. 2. ISSUANCE OF REGULATIONS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended—

(1) in subsection (i)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(2) in subsection (n)—

(A) by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(B) by striking ", including" and inserting in lieu thereof "on railroad bridges. At a minimum, the Secretary shall provide";

(C) by striking "such as" and inserting in lieu thereof "including"; and

(D) by striking "relating to instances when boats shall be used" and inserting in lieu thereof "for the use of boats when work is performed on bridges located over bodies of water";

(3) in subsection (o)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards"; and

(4) in subsection (q), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards".

**SEC. 3. REMEDIAL ACTIONS.**

(a) REGULATIONS.—The Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall issue regulations to require that any railroad notified by the Secretary that assessment of a civil penalty will be recommended for a failure to comply with a provision of the Federal railroad safety laws, as such term is defined in section 212(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(e)), or any rule, regulation, order, or standard issued under such provision, shall report to the Secretary, within 30 days after the end of the month in which such notification is received, actions taken to remedy that failure.

(b) EXPLANATION OF DELAY.—Regulations issued under subsection (a) shall provide that, if appropriate remedial actions cannot be taken by a railroad within such 30-day period, such railroad shall

[106 Stat. 973–981 omitted (9 pages)]

ommendations for legislative or regulatory action to ameliorate any such problems that affect safety in train operations.

## SEC. 18. NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) MEETINGS.—Section 11(c) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended to read as follows:

"(c) The Northeast Corridor Safety Committee shall meet at least once every 2 years to consider matters involving safety on the main line of the Northeast Corridor.".

(b) REPORT.—Section 11(d) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended—

(1) by striking "Within one year after the date of enactment of this Act" and inserting in lieu thereof "At the beginning of the first session of the 103rd Congress, and biennially thereafter,"; and

(2) by adding at the end the following new sentence: "The report shall contain the safety recommendations of the Northeast Corridor Safety Committee and the comments of the Secretary on those recommendations.".

(c) TERMINATION DATE.—Section 11 of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended by adding at the end the following new subsection:

"(e) The Northeast Corridor Safety Committee shall cease to exist on January 1, 1999, or on such date as the Secretary determines to be appropriate. The Secretary shall notify the Congress in writing of any such determination.".

## SEC. 19. AIRPORT LEASES.

(a) FINDINGS.—Congress finds that—

(1) there are major airports served by an air carrier that has leased a substantial majority of the airport's gates;

(2) the commerce in the region served by such a major airport can be disrupted if the air carrier that leases most of its gates enters bankruptcy and either discontinues or materially reduces service; and

(3) it is important that such airports be empowered to continue service in the event of such a disruption.

(b) BANKRUPTCY RULES REGARDING UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraphs:

"(5) Notwithstanding paragraphs (1) and (4) of this subsection, in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate before the occurrence of a termination event, then (unless the court orders the trustee to assume such unexpired leases within 5 days after the termination event), at the option of the airport operator, such lease is deemed rejected 5 days after the occurrence of a termination event and the trustee shall immediately surrender possession of the premises to the airport operator; except that the lease shall not be deemed to be rejected unless the airport operator first waives the right to damages related to the rejection. In the event that the lease is deemed to be rejected under this paragraph, the airport operator shall provide the affected air carrier adequate opportunity after the surrender of the premises to remove the fixtures and equipment installed by the affected air carrier.

"(6) For the purpose of paragraph (5) of this subsection and paragraph (f)(1) of this section, the occurrence of a termination event means, with respect to a debtor

which is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate—

> "(A) the entry under section 301 or 302 of this title of an order for relief under chapter 7 of this title;
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> "(B) the conversion of a case under any chapter of this title to a case under chapter 7 of this title; or
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> "(C) the granting of relief from the stay provided under section 362(a) of this title with respect to aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301), except for property of the debtor found by the court not to be necessary to an effective reorganization.

"(7) Any order entered by the court pursuant to paragraph (4) extending the period within which the trustee of an affected air carrier must assume or reject an unexpired lease of nonresidential real property shall be without prejudice to—

> "(A) the right of the trustee to seek further extensions within such additional time period granted by the court pursuant to paragraph (4); and
>
> "(B) the right of any lessor or any other party in interest to request, at any time, a shortening or termination of the period within which the trustee must assume or reject an unexpired lease of nonresidential real property.

"(8) The burden of proof for establishing cause for an extension by an affected air carrier under paragraph (4) or the maintenance of a previously granted extension under paragraph (7)(A) and (B) shall at all times remain with the trustee.

"(9) For purposes of determining cause under paragraph (7) with respect to an unexpired lease of nonresidential real property between the debtor that is an affected air carrier and an airport operator under which such debtor is the lessee of an airport terminal or an airport gate, the court shall consider, among other relevant factors, whether substantial harm will result to the airport operator or airline passengers as a result of the extension or the maintenance of a previously granted extension. In making the determination of substantial harm, the court shall consider, among other relevant factors, the level of actual use of the terminals or gates which are the subject of the lease, the public interest in actual use of such terminals or gates, the existence of competing demands for the use of such terminals or gates, the effect of the court's extension or termination of the period of time to assume or reject the lease on such debtor's ability to successfully reorganize under chapter 11 of this title, and whether the trustee of the affected air carrier is capable of continuing to comply with its obligations under section 365(d)(3) of this title.".

(c) PARTIAL ASSIGNMENTS OR ASSUMPTIONS OF LEASES.—Section 365(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) such lease is of nonresidential real property under which the debtor is the lessee of an aircraft terminal or aircraft gate at an airport at which the debtor is the lessee under one or more additional nonresidential leases of an aircraft terminal or aircraft gate and the trustee, in connection with such assumption or assignment,

does not assume all such leases or does not assume and assign all of such leases to the same person, except that the trustee may assume or assign less than all of such leases with the airport operator's written consent.".

(d) PROHIBITION OF LEASE ASSIGNMENTS AFTER TERMINATION EVENT.—Section 365(f)(1) of title 11, United States Code, is amended by striking the period at the end and inserting in lieu thereof the following: "; except that the trustee may not assign an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate if there has occurred a termination event.".

(e) AFFECTED AIR CARRIER DEFINED.—Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) In this section, 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds 65 percent or more in number of the aircraft gates at an airport—

"(1) which is a Large Air Traffic Hub as defined by the Federal Aviation Administration in Report FAA–AP 92–1, February 1992; and

"(2) all of whose remaining aircraft gates are leased or under contract on the date of enactment of this subsection.".

(f) APPLICABILITY.—The amendments made by this section shall be in effect for the 12-month period that begins on the date of enactment of this Act and shall apply in all proceedings involving an affected air carrier (as defined in section 365(p) of title 11, United States Code, as amended by this section) that are pending during such 12-month period. Not later than 9 months after the date of enactment, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce,

Science, and Transportation and Committee on the Judiciary of the Senate and the Committee on the Judiciary and Committee on Public Works and Transportation of the House of Representatives on whether this section shall apply to proceedings that are commenced after such 12-month period.

APPROVED September 3, 1992.