

EXPLANATION OF H.R. , TO AMEND TITLE 49, UNITED STATES CODE, BY RESTATING TITLE V OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AS A NEW CHAPTER 224 OF TITLE 49, UNITED STATES CODE, AND TO IMPROVE THE UNITED STATES CODE

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BACKGROUND

Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 contains provisions relating to the Railroad Rehabilitation and Improvement Financing program. The title is currently editorially classified to subchapter II of chapter 17 of title 45, United States Code. The bill restates the title as a new positive law chapter of title 49, United States Code, to replace the former provisions, which are repealed by the bill.

The bill was prepared by the Office of the Law Revision Counsel as part of the Office’s ongoing responsibility under section 205(c) of House Resolution No. 988, 93d Congress, as enacted into law by Public Law 93–554 (2 U.S.C. 285b), “[t]o prepare and submit periodically such revisions in the titles of the Code which have been enacted into positive law as may be necessary to keep such titles current”.

RESTATEMENT DOES NOT CHANGE MEANING OR EFFECT OF EXISTING LAW

As provided by section 2(b)(1) of the bill, the restatement of existing law by the bill does not change the meaning or effect of the existing law. The restatement incorporates in title 49 provisions that were enacted a title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.), updating style and terminology, modernizing obsolete language, and improving organization and designations. These changes serve to remove ambiguities, contradictions, and other imperfections, but they do not change the meaning or effect of the existing law or impair the precedential value of earlier judicial decisions or other interpretations.

The courts have repeatedly held that the restatement of existing law in a bill such as this one does not change the meaning or effect of the existing law unless Congress explicitly expresses the intent to do so. See, e.g., the following:

Finley v. United States, 490 U.S. 545, 553–555 (1989).

Cass v. United States, 417 U.S. 72, 81–82 (1974).

Tidewater Oil Co. v. U.S., 409 U.S. 151, 161, 162 (1972).

United States v. Cook, 384 U.S. 257, 260 (1966).

Fourco Glass Co. v. Transmirra Products Corp., 353 U.S. 222, 227, 228 (1957).

Washington–Dulles Transportation, Ltd. v. Metropolitan Washington Airports Authority, 263 F.3d 371, 378–379 (4th Cir. 2001).

Atchison, Topeka and Santa Fe Railway Co. v. United States, 617 F. 2d 485, 488–491 (7th Cir. 1980).

Trailer Marine Transport Corp. v. Federal Maritime Commission, 602 F. 2d 379, 383 nt. 18, 387–389 (D.C. Cir. 1979).

Scheidler v. National Organization for Women, Inc., 547 U.S. 9 (2006).

Keene Corp. v. United States, 508 U.S. 200, 209 (1993).

United States v. Sischo, 262 U.S. 165, 168 (1923).

United States v. Ryder, 110 U.S. 729, 740 (1884).

McDonald v. Hovey, 110 U.S. 619, 628–630 (1884).

Smythe v. Fiske, 23 Wall. 374, 382 (1874).

Stewart v. Kahn, 11 Wall. 493, 502 (1871).

See also NORMAN J. SINGER, SUTHERLAND STATUTORY CONSTRUCTION, §§ 28.10, 28.11 (7thed. 2009).

DISPOSITION TABLE

The table below shows a disposition for provisions affected by the bill.

Disposition Table

Former United States Code Section	Disposition
45 U.S.C. 821	49 U.S.C. 22401 (except (14))
45 U.S.C. 822	49 U.S.C. 22402
45 U.S.C. 822 note (Pub. L. 109–59, title IX, §9003(j))	49 U.S.C. 22405
45 U.S.C. 823	49 U.S.C. 22403
45 U.S.C. 824	Previously repealed.
45 U.S.C. 825	Previously repealed.
45 U.S.C. 825a	Previously repealed.
45 U.S.C. 826	Previously repealed.
45 U.S.C. 827	Previously repealed.
45 U.S.C. 828	Previously repealed.
45 U.S.C. 829	Previously repealed.
45 U.S.C. 830	Previously repealed.
45 U.S.C. 831	Previously repealed except for subsection (c), which was transferred to 45 U.S.C. 823(b). See paragraphs (2) and (4) of section 7203(a) of the Transportation Equity Act for the 21st Century (Public Law 105–178, 112 Stat. 477).
45 U.S.C. 832	Previously repealed.
45 U.S.C. 833	Previously repealed.

Disposition Table

Former United States Code Section	Disposition
45 U.S.C. 834	Previously repealed.
45 U.S.C. 835	Previously repealed.
45 U.S.C. 836	49 U.S.C. 22404
45 U.S.C. 837	Previously repealed.
45 U.S.C. 838	Previously repealed.

SECTION-BY-SECTION EXPLANATION

SECTION 1—TABLE OF CONTENTS

Section 1 of the bill provides a table of contents for the Act.

SECTION 2—PURPOSES; RESTATEMENT DOES NOT CHANGE MEANING OR EFFECT OF EXISTING LAW

Section 2(a) of the bill provides that the purpose of the bill is to amend title 49, United States Code, by restating title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) as a new chapter 224 of title 49, United States Code, and to improve the United States Code.

Section 2(b)(1) of the bill provides that the restatement of existing law does not change the meaning or effect of the existing law (see the explanation above, under the heading “Restatement Does Not Change Meaning or Effect of Existing Law”).

Section 2(b)(2) of the bill creates a rule of construction to provide that, notwithstanding the plain meaning rule or other rules of statutory construction, a change in wording made in the restatement of existing law serves to clarify the existing law, but not to change the meaning or effect of the existing law. This rule of construction applies whether or not a change in wording is explained by a revision note appearing in a congressional report accompanying the bill. The bill provides that if such a revision note does appear, a court is required to consider the revision note in interpreting the change.

SECTION 3—AMENDMENT OF TITLE 49, UNITED STATES CODE

Section 3(a) amends the table of contents for subtitle V of title 49, United States Code.

Section 3(b) of the bill amends title 49, United States Code, by restating title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) as a new chapter 224 of title 49, United States Code.

For each section of title V of the Act that is enacted by section 3 of the bill, a 3-column source law citation table is set out below (along with any applicable revision notes) to indicate the specific source law being restated in each new section of chapter 224 of title 49, United States Code. In the revision notes, where language is quoted from a source provision, the enacted language, as it appears in the Statutes at Large rather than in the United States Code, is shown.

SOURCE LAW CITATION TABLES AND REVISION NOTES

SECTION 22401

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Pub. L.)</i>
22401 (except (14))	45 U.S.C. 821	Pub. L. 94-210, title V, § 501, as added Pub. L. 105-178, title VII, § 7203(a)(1), June 9, 1998, 112 Stat. 471; amended Pub. L. 114-94, div. A, title XI, § 11602, Dec. 4, 2015, 129 Stat. 1693.
22401(14)	(no source)	

In paragraph (14), a definition of “Secretary” is added to carry forward paragraph (8) of section 102 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(8)). In carrying forward that paragraph (8), the words “or his designated representative” are omitted as unnecessary.

SECTION 22402

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Pub. L.)</i>
22402	45 U.S.C. 822	Pub. L. 94-210, title V, § 502, as added Pub. L. 105-178, title VII, § 7203(a)(1), June 9, 1998, 112 Stat. 473; amended Pub. L. 109-59, title IX, § 9003(b)-(g), Aug. 10, 2005, 119 Stat. 1921-1923; Pub. L. 110-432, div. A, title VII, § 701(e), Oct. 16, 2008, 122 Stat. 4906; Pub. L. 114-94, div. A, title XI, §§ 11603-11605(a), 11606, 11607(a), 11608, 11609, Dec. 4, 2015, 129 Stat. 1694, 1695, 1697-1700; Pub. L. 116-94, div. H, title I, § 192, Dec. 20, 2019, 133 Stat. 2972; Pub. L. 116-159, div. B, title I, § 1104(b), Oct. 1, 2020, 134 Stat. 727.

In subsection (b)(1)(A)(ii), the words “finance costs” are substituted for “costs” to supply a missing word.

In subsection (f)(3), in the matter before subparagraph (A), the words “An applicant may propose, and the Secretary shall accept, as a basis” are substituted for “An applicant may propose and the Secretary shall accept as a basis” for clarity.

In subsection (f)(3)(B)(ii), in the matter after the semicolon, the word “and” is substituted for “or” to use the more appropriate word.

In subsection (h)(2)(A)(ii), the words “or enhanced after being provided” are substituted for “thereafter enhanced” for clarity.

In subsection (h)(2)(B), the words “The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to have previously sought” are substituted for “The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought” for clarity.

In subsection (h)(3)(A), the word “Amtrak” is substituted for “National Railroad Passenger Corporation” for consistency with sections 24308(a) and 24312 of title 49.

In subsection (m)(2)(C), the words “contingent on the meeting of all requirements, and after all requirements have been met,” are substituted for “contingent on and after all requirements have been met” to supply missing words.

In subsection (m)(2)(D), the words “results in the issuance of each of the direct loans or loan guarantees” are substituted for “results in each of the direct loans or loan guarantees” for clarity.

SECTION 22403

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Pub. L.)</i>
22403	45 U.S.C. 823	Pub. L. 94–210, title V, § 503, as added and amended Pub. L. 105–178, title VII, § 7203(a)(1), (4), June 9, 1998, 112 Stat. 475, 477; Pub. L. 109–59, title IX, § 9003(h), (i), Aug. 10, 2005, 119 Stat. 1923; Pub. L. 114–94, div. A, title XI, § 11605(b), Dec. 4, 2015, 129 Stat. 1695; Pub. L. 115–56, div. D, § 164(b), as added Pub. L. 115–123, div. B, subdiv. 3, § 20101(2), Feb. 9, 2018, 132 Stat. 121.

In subsection (l)(3)(B), the words “servicing a direct loan” are substituted for “serving a direct loan” to correct a technical error.

SECTION 22404

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Pub. L.)</i>
22404	45 U.S.C. 836	Pub. L. 94–210, title V, § 504, formerly § 516, Feb. 5, 1976, 90 Stat. 82; renumbered § 504, Pub. L. 105–178, title VII, § 7203(a)(5), June 9, 1998, 112 Stat. 477.

In subsection (a)(1), the words “not otherwise protected under title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.),” are omitted as obsolete because of the repeal of title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.) by section 1144(a)(1) of the Northeast Rail Service Act of 1981 (Public Law 97–35, title XI, subtitle E, 95 Stat. 669).

In subsection (b)(4)(B)(ii)(I), the words “shall not modify” are substituted for “shall in no way modify” to eliminate unnecessary words.

SECTION 22405

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Pub. L.)</i>
22405	45 U.S.C. 822 note	Pub. L. 109–59, title IX, § 9003(j), Aug. 10, 2005, 119 Stat. 1923.

In this section, the words “Not later than 30 days after the date of enactment of this Act” are omitted as obsolete.

SECTION 4—CONFORMING AMENDMENTS

Section 4 of the bill makes conforming amendments to certain provisions of law.

SECTION 5—TRANSITIONAL AND SAVINGS PROVISIONS

Section 5 of the bill contains transitional and savings provisions.

SECTION 6—REPEALS

Section 6 of the bill repeals provisions replaced by the bill, along with unnecessary and obsolete provisions (see “Disposition Table” above).