

JAN 23 2009

A BILL FOR AN ACT

RELATING TO HAWAII AIR CARRIERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 261E, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding a new section to be appropriately designated
4 and to read:

5 "§261E- Capacity discussions. (a) The commission may
6 initiate discussions between Hawaii air carriers when it
7 determines that capacity on one or more routes is significantly
8 inappropriate as compared to demand for that transportation.
9 The primary purpose of these discussions is to facilitate
10 voluntary, coordinated management of flying levels if, and when,
11 events have resulted in a significant reduction in demand, such
12 as the reduction in demand for interisland travel following the
13 September 11, 2001, terrorist attacks, which resulted in a
14 one-time exception to antitrust laws for the purpose of
15 coordinating service reductions.

16 (b) In any capacity discussions, the commission shall
17 advocate the needs of the traveling public, including a suitable



1 range of travel times and the availability of sufficient numbers
2 of seats.

3 (c) A Hawaii air carrier may decline to participate and
4 shall retain the right to continue its current level of service.

5 (d) If the carriers reach a mutually acceptable
6 understanding regarding capacity offerings, the commission may
7 recommend to the governor that a request for an antitrust
8 exemption be submitted to the Secretary of the United States
9 Department of Transportation. No capacity agreement between
10 Hawaii air carriers shall be implemented until the United States
11 Department of Transportation grants a specific antitrust
12 exemption."

13 2. By amending section 261E-1 to read:

14 "§261E-1 Application of chapter [; ~~interstate or foreign~~
15 commerce]. (a) In carrying out this chapter, the director of
16 transportation shall consider the following matters, among
17 others, as being in the public interest and consistent with the
18 public convenience and necessity:

19 (1) Assigning and maintaining safety as the highest
20 priority in air commerce;



- 1 (2) Evaluating the safety implications of new air
2 transportation services before authorizing any
3 services;
- 4 (3) Ensuring the availability of a variety of adequate,
5 economic, efficient, and fairly priced services
6 without unreasonable discrimination or unfair or
7 deceptive practices;
- 8 (4) Coordinating transportation by, and improving
9 relations among, air carriers, and encouraging fair
10 wages and working conditions;
- 11 (5) Placing reasonable reliance on competitive market
12 forces and on actual and potential competition to:
- 13 (A) Provide the needed air transportation system; and
14 (B) Encourage efficient and well-managed air carriers
15 to earn adequate profits and attract capital,
16 considering any material differences between
17 interstate air transportation and intrastate air
18 transportation;
- 19 (6) Developing and maintaining a sound regulatory system
20 that is responsive to the needs of the public and in
21 which decisions are made promptly to make it easier to



1 adapt the air transportation system to the present and
2 future needs of the State of Hawaii;

3 (7) Preventing unfair, deceptive, predatory, or
4 anticompetitive practices in air transportation;

5 (8) Avoiding excessive market domination, monopoly powers,
6 and other conditions that would allow at least one air
7 carrier to unreasonably increase prices, reduce
8 services, or exclude competition in air
9 transportation;

10 (9) Maintaining a complete and convenient system of
11 continuous scheduled intrastate air transportation for
12 small communities and isolated areas with direct
13 financial assistance from the federal government when
14 appropriate;

15 (10) Encouraging, developing, and maintaining an air
16 transportation system relying on actual and potential
17 competition to:

18 (A) Provide efficiency, innovation, and fair and
19 reasonable prices; and

20 (B) Decide on the variety and quality of, and
21 determine prices for, air transportation
22 services;



1 (11) Strengthening the competitive position of Hawaii air
2 carriers to at least ensure equality with interstate
3 air carriers that serve Hawaii; and

4 (12) Ensuring that Hawaii consumers, including those in
5 small communities and rural and remote areas, have
6 reasonable access to affordable, regularly scheduled
7 air service.

8 (b) This chapter shall apply to any person operating or
9 intending to operate civil turbojet aircraft or turbine-powered
10 aircraft with a seat configuration of more than seventeen
11 passengers, or a maximum payload of three thousand pounds or
12 more, in the capacity of a Hawaii air carrier.

13 (c) This chapter shall not apply to commerce with foreign
14 nations, with territories of the United States, or to interstate
15 commerce, except insofar as the application is permitted under
16 the Constitution and laws of the United States."

17 3. By amending section 261E-2 to amend the definitions of
18 "control" and "Hawaii air carrier" and to add the definition of
19 "intrastate air transportation" to read:

20 "'Control[₇]", in reference to a relationship between any
21 person or persons and another person or persons, includes actual
22 as well as legal control, indirect as well as direct control,



1 and the power to exercise substantial influence whether or not
2 exercised.

3 "Hawaii air carrier" or "carrier" means any person or
4 entity who has received a certificate issued by the commission
5 and who undertakes or holds itself out to the general public as
6 engaging directly or indirectly in the transportation by air of
7 passengers or property, or both, for compensation or hire within
8 the State of Hawaii or between points within the [~~state-~~] State
9 of Hawaii.

10 "Intrastate air transportation" means the transportation by
11 a Hawaii air carrier of passengers or property for compensation,
12 entirely within the State of Hawaii or between two places in the
13 State of Hawaii through airspace over a place outside the State
14 of Hawaii."

15 4. By amending section 261E-3 to read:

16 "**§261E-3 Exemptions; generally.** Notwithstanding any other
17 provisions of this chapter, this chapter shall not apply to:

- 18 (1) Persons transporting their own property where the
19 transportation is in furtherance of a primary business
20 purpose or enterprise of that person, except where the
21 transportation is undertaken by a Hawaii air carrier
22 to evade the regulatory purposes of this chapter; [~~or~~]



1 (2) Persons engaged in the business of transporting
2 persons solely for sightseeing and other recreational
3 activities not involving point-to-point travel[-]; or

4 (3) Persons engaged in on-demand operations such as air
5 ambulance flights or air taxi flights in aircraft with
6 a seating capacity for seventeen or fewer passengers."

7 5. By amending subsections (c) and (d) of section 261E-4
8 to read:

9 "(c) In appointing members, the governor shall consider
10 persons who have experience in transportation, accounting,
11 engineering, government, finance, law, or other similar fields.
12 No person owning any stock or bonds of any Hawaii air carrier or
13 of any common carrier by air, [~~or having any interest in,~~] or
14 deriving any remuneration from[-] any Hawaii air carrier or any
15 common carrier by air shall be appointed as a commissioner;
16 provided that any person who has retired from the service of,
17 and no longer holds any position with, any common carrier or
18 Hawaii air carrier may be eligible for appointment.

19 (d) The members of the commission shall [~~receive no~~
20 ~~compensation~~] be compensated for their services on the
21 commission, [~~but~~] as determined by the legislature, and shall be



1 reimbursed for actual expenses, including travel expenses,
2 incurred in the performance of their duties."

3 6. By amending section 261E-8 to read:

4 "**§261E-8 Certificates of public convenience and necessity.**

5 (a) Except as otherwise provided in this chapter, no person
6 shall engage in air transportation unless the person holds a
7 certificate of public convenience and necessity issued by the
8 air carrier commission authorizing its operation.

9 (b) Applications for certificates shall be made in writing
10 to the commission. Applications shall be in the proper form and
11 contain the required information, with [~~the~~] proof of service
12 upon the interested parties, as the commission shall require by
13 rule.

14 (c) A certificate shall be issued to any qualified
15 applicant, authorizing the whole or any part of the operations
16 covered by the application if it is found that the applicant is
17 a citizen of the United States and fit, willing, and able to
18 properly perform the service proposed and to conform to this
19 chapter and the requirements and rules of the commission, and
20 that the proposed service, to the extent to be authorized by the
21 certificate, is required by the public convenience and
22 necessity; otherwise the application shall be denied. The



1 applicant shall have the burden of proof to establish that any
2 proposed service is required by the public convenience and
3 necessity. The commission shall institute an oral evidentiary
4 hearing to consider any application for a certificate that would
5 authorize the holder to use aircraft capable of carrying more
6 than seventeen passengers.

7 (d) Any applicant receiving a certificate under this
8 chapter shall pay, upon receipt of the certificate, a
9 registration fee and subsequent annual fee that shall be
10 determined by the commission and deposited into the state
11 general fund.

12 ~~[(e) Any Hawaii air carrier engaging in air transportation~~
13 ~~under a certificate issued by the commission may occasionally~~
14 ~~deviate from the route over which it is authorized to operate~~
15 ~~under the certificate under rules adopted by the commission.]"~~

16 7. By amending section 261E-9 to read:

17 "§261E-9 Temporary authority. To enable the provision of
18 service for which there is an immediate and urgent need to a
19 point or points having no Hawaii air carrier service capable of
20 meeting and willing to meet the need, the air carrier
21 commission, in its discretion and without hearings or other
22 proceedings, may grant temporary authority for the service by a



1 carrier that is not a Hawaii air carrier. The temporary
2 authority, unless suspended or revoked for good cause, shall be
3 valid for the time the commission shall specify, but for not
4 more than a period of one hundred twenty days for any one
5 immediate and urgent need."

6 8. By amending section 261E-10 to read:

7 "**§261E-10 Transfer of certificates of public convenience**
8 **and necessity; carrier property; control of carriers.** (a) No
9 Hawaii air carrier shall sell, lease, assign, mortgage, or
10 otherwise dispose of, or encumber any certificate, in whole or
11 in part [~~, or any of its property necessary or useful in the~~
12 ~~performance of transportation services for the public]~~; nor
13 shall any Hawaii air carrier, by any means, directly or
14 indirectly, merge or consolidate its property, certificates, or
15 any part thereof, with any other carrier, without in each case
16 first having secured from the [~~air carrier]~~ commission an order
17 authorizing it to do so [~~, and every such sale, lease,~~
18 ~~assignment, mortgage, disposition, encumbrance, merger, or~~
19 ~~consolidation, made other than in accordance with an order of~~
20 ~~the commission authorizing the same, shall be void and of no~~
21 ~~effect.~~



1 ~~(b) No Hawaii air carrier shall purchase or acquire, take,~~
2 ~~or hold any part of the capital stock of any other common~~
3 ~~carrier without having been first authorized to do so by the~~
4 ~~commission. Every assignment or transfer of any stock by or~~
5 ~~through any person to any person, or otherwise, in violation of~~
6 ~~this section shall be void and of no effect, and no such~~
7 ~~transfer shall be made on the books of any air carrier. Nothing~~
8 ~~in this subsection shall prevent the holding of stock lawfully~~
9 ~~acquired prior to the effective date of this chapter].~~

10 [~~(e)~~] (b) No person shall acquire control of any Hawaii
11 air carrier without first receiving the approval of the
12 commission.

13 [~~(d)~~] (c) Whenever a transaction is proposed under
14 subsection (a) [~~7~~] or (b), [~~or (e)~~], the Hawaii air carrier or
15 carriers, or person or persons, seeking approval shall present
16 an application to the commission in the form prescribed by the
17 commission. The commission may act upon the application with or
18 without first holding a public hearing; provided that, if
19 requested, the commission shall afford reasonable opportunity
20 for interested parties to be heard. If the commission finds,
21 subject to the terms and conditions that it determines to be
22 just and reasonable, that the proposed transaction will be



1 consistent with the public interest, the commission shall enter
2 an order approving and authorizing the transaction, upon the
3 terms and conditions and with the modifications found to be just
4 and reasonable. The proponent of the transaction within the
5 scope of subsection (a) [~~7~~] or (b) [~~7~~, ~~or~~ (~~e~~)] shall have the
6 burden of proof to establish that the transaction is consistent
7 with the public interest.

8 [~~e~~] (d) Pending the determination of an application
9 filed with the commission for approval of a consolidation or
10 merger of the properties of two or more Hawaii air carriers, or
11 of a purchase, lease, charter, or contract to operate the
12 properties of one or more Hawaii air carriers, or of an
13 acquisition of control of a Hawaii air carrier, the commission,
14 in its discretion and without hearings or other proceedings, may
15 grant temporary approval for a period not exceeding one hundred
16 twenty days, or for an additional period as the determination of
17 an application may require, of the operation of the Hawaii air
18 carrier properties sought to be acquired by the persons
19 proposing in the pending application to acquire the properties,
20 if it appears that failure to grant this temporary approval may
21 result in destruction of or injury to the Hawaii air carrier
22 properties sought to be acquired or substantial interference



1 with their future usefulness in the performance of adequate and
2 continuous service to the public.

3 ~~[(f) This section shall apply to any transaction entered
4 into or proposed to be entered into by a related company that is
5 determined by the commission to have potential impact upon the
6 related Hawaii air carrier or its operations. A related company
7 shall notify the commission of any such transaction at least
8 sixty days prior to its consummation.] "~~

9 9. By amending subsection (c) of section 261E-11 to read:

10 "(c) The right to engage in transportation by virtue of
11 any certificate issued pursuant to section 261E-8 or by virtue
12 of temporary authority or approval granted under section 261E-9
13 or 261E-10, may be suspended by the commission upon reasonable
14 notice ~~[of not fewer than fifteen days to the carrier, but
15 without]~~ and after hearing ~~[or other proceedings]~~, for failure
16 to comply by the carrier or any related company, with the terms
17 of the certificate or temporary authority or approval or with
18 any lawful order or rule of the commission regarding the
19 certificate or temporary authority or approval."

20 10. By amending section 261E-12 to read:



1 "§261E-12 Rates, fares, and other charges of air carriers.

2 (a) In the transportation of passengers, every Hawaii air
3 carrier shall:

4 (1) Provide safe and adequate service, equipment, and
5 facilities for the transportation of the passengers;
6 and

7 (2) Establish, observe, and enforce just and reasonable:

8 (A) Rates, fares, and charges;

9 (B) Regulations and practices relating to rates,
10 fares, and charges; and

11 (C) Regulations and practices relating to:

12 (i) The issuance, form, and substance of
13 tickets;

14 (ii) The carrying of personal, sample, and excess
15 baggage;

16 (iii) The facilities for transportation; and

17 (iv) All other matters relating to or connected
18 with the transportation of passengers as
19 determined by the commission.

20 (b) In the transportation of property, every Hawaii air
21 carrier shall:



- 1 (1) Provide safe and adequate service, equipment, and
- 2 facilities for the transportation of the property; and
- 3 (2) Establish, observe, and enforce just and reasonable:
- 4 (A) Rates, charges, and classifications;
- 5 (B) Regulations and practices relating to rates,
- 6 charges, and classifications; and
- 7 (C) Regulations and practices relating to:
- 8 (i) The manner and method of presenting,
- 9 marking, packing, and delivering property
- 10 for transportation;
- 11 (ii) The facilities for transportation; and
- 12 (iii) All other matters relating to or connected
- 13 with the transportation of property [as
- 14 ~~determined by the commission]~~.
- 15 (c) ~~[All charges made for any service rendered by any~~
- 16 ~~Hawaii air carrier in the transportation of passengers or~~
- 17 ~~property or in connection with the service shall be just and~~
- 18 ~~reasonable and every unjust and unreasonable charge for the~~
- 19 ~~service or any part thereof shall be prohibited and declared to~~
- 20 ~~be unlawful.~~
- 21 (d)] Any person or body politic may make a complaint in
- 22 writing to the commission that any rate, fare, charge, rule, or



1 practice, in effect or proposed to be put into effect, is or
2 will be in violation of this section. Whenever, after hearing,
3 upon complaint or in an investigation on its own initiative, the
4 commission determines that any individual rate, fare, or charge,
5 demanded, charged, or collected by any Hawaii air carrier, or
6 any rule or practice whatsoever of the Hawaii air carrier
7 affecting the rate, fare, or charge or the value of the service
8 is or will be unjust or unreasonable, the commission shall
9 ~~[determine and prescribe the lawful rate, fare, or charge or the~~
10 ~~maximum or minimum rate, fare, or charge thereafter to be~~
11 ~~observed, or the lawful rule or practice thereafter to be made~~
12 ~~effective.] notify the air carrier that the rate, fare, or~~
13 ~~charge is not in compliance with the conditions of its~~
14 ~~certificate of public convenience and necessity.~~

15 ~~[-(e)]~~ (d) In the exercise of its power to ~~[prescribe]~~
16 review and evaluate just and reasonable rates, fares, and
17 charges for the transportation of passengers or property by
18 Hawaii air carriers ~~[and to prescribe classifications, rules,~~
19 ~~and practices relating thereto]~~, the commission shall give
20 consideration, among other factors, to the following:



1 (1) The effect of the rates upon the movement of traffic
2 by the Hawaii air carrier or carriers for which the
3 rates are prescribed;

4 (2) The need, in the public interest, of adequate and
5 efficient transportation service by the carriers at
6 the lowest cost consistent with the furnishing of the
7 service; and

8 (3) The need for revenues sufficient to enable the
9 carriers, under honest, economical, and efficient
10 management, including the operation of service at
11 reasonable load factors, to provide the service[-]
12 with a fair rate of return.

13 (e) If, after notice of noncompliance with the provisions
14 of its certificate of public convenience and necessity, a Hawaii
15 air carrier has not corrected the noncompliance, the commission
16 may take one of the following corrective actions:

17 (1) Notify the carrier that its failure to correct unjust
18 or unreasonable fares, rates, or charges shall result
19 in a solicitation by the State of additional competing
20 air service and may result in suspension or revocation
21 of the offending carrier's certificate of public
22 convenience and necessity; or



1 (2) Issue a notice to the carrier, terminating its
2 certificate of public convenience and necessity on a
3 date certain, but no sooner than one hundred twenty
4 days from the date of the notice.

5 ~~[(f) The commission shall establish and thereafter~~
6 ~~periodically adjust the recognized level of the fare, rate, or~~
7 ~~charge. The commission may adjust the recognized level by~~
8 ~~increasing or decreasing it, as appropriate, by the percentage~~
9 ~~change in the aggregate cost per available seat mile of~~
10 ~~similarly situated carriers for fares and per available ton mile~~
11 ~~for general commodity rates.~~

12 ~~(g) The commission shall have no authority to find that~~
13 ~~any fare, rate, or other charge for service established by any~~
14 ~~Hawaii air carrier is unjust, unreasonable, or unjustified or to~~
15 ~~suspend the fare, rate, or other charge on the basis that the~~
16 ~~fare, rate or charge is too low or too high if the fare, rate,~~
17 ~~or charge is not more than five per cent higher or ten per cent~~
18 ~~lower than the recognized level of the fare, rate, or charge.~~
19 ~~Separate recognized levels shall be established and thereafter~~
20 ~~periodically adjusted on a peak and off peak basis for first~~
21 ~~class fares, normal economy fares, tour basing fares, group~~
22 ~~fares, kamaaina fares, and for general commodity rates. The~~



1 ~~commission shall have no authority to find that a contract~~
2 ~~freight rate is unjust or unreasonable.] "~~

3 11. By amending section 261E-13 to read:

4 "§261E-13 Tariffs. (a) Every Hawaii air carrier shall
5 file with the [air carrier] commission, and keep open to public
6 inspection, tariffs showing all the rates, fares, and charges
7 for transportation, and all services in connection therewith, of
8 passengers or property. The rates, fares, and charges shall be
9 stated in terms of lawful money of the United States. The
10 tariffs required by this section shall be published, filed, and
11 posted in the form and manner and shall contain the information
12 that the commission shall prescribe by rule. [~~The commission~~
13 ~~may reject any tariff filed with it that is inconsistent with~~
14 ~~this section. Any tariff rejected by the commission shall be~~
15 ~~void and its use shall be unlawful.]~~

16 (b) ~~No change shall be made in any rate, fare, charge, or~~
17 ~~classification, or any rule, or practice affecting the rate,~~
18 ~~fare, charge, or classification, or the value of the service~~
19 ~~thereunder, specified in any effective tariff of a Hawaii air~~
20 ~~carrier, except after thirty days notice of the proposed change~~
21 ~~filed and posted in accordance with subsection (a). The~~
22 ~~commission, in its discretion and for good cause shown, may~~



1 ~~allow the change upon notice less than that specified or modify~~
2 ~~the requirements of this section with respect to posting and~~
3 ~~filing of tariffs, either in particular instances or by general~~
4 ~~order applicable to special or peculiar circumstances or~~
5 ~~conditions.~~

6 ~~(e)]~~ No Hawaii air carrier shall engage in the
7 transportation of persons or property unless the rates, fares,
8 and charges upon which the same are transported by the carrier
9 have been filed and published in accordance with this chapter.

10 ~~[(d) Whenever any schedule is filed with the commission~~
11 ~~stating a new rate, fare, or charge for the transportation of~~
12 ~~passengers or property by a Hawaii air carrier or any rule or~~
13 ~~practice affecting the rate, fare, or charge, or the value of~~
14 ~~the service thereunder, the carrier, on its own initiative may,~~
15 ~~or by order of the commission served prior to the effective date~~
16 ~~of the schedule shall, concurrently file an economic~~
17 ~~justification that shall be prepared under the same form and in~~
18 ~~the same manner as prescribed by the commission unless the~~
19 ~~changed fare or rate is within the zone of fare or rate~~
20 ~~flexibility established pursuant to section 261E-12(g).~~

21 ~~Except as provided in section 261E-12(g), the commission,~~
22 ~~upon complaint of any interested person or upon its own~~



1 ~~initiative at once and, if it so orders, without answer or other~~
2 ~~formal pleading by the interested carrier or carriers, but upon~~
3 ~~reasonable notice, may enter upon a hearing concerning the~~
4 ~~lawfulness of the rate, fare, or charge, or the rule or~~
5 ~~practice, and pending the hearing and decision the commission,~~
6 ~~may suspend the operation of the schedule and defer the use of~~
7 ~~the rate, fare, or charge, or the rule or practice, by~~
8 ~~delivering to the affected carrier or carriers not later than~~
9 ~~five days prior to the effective date of the schedule, a~~
10 ~~statement in writing of its reasons for the suspension. The~~
11 ~~commission shall have up to six months from the date of ordering~~
12 ~~a hearing to investigate the lawfulness of the rate, fare, or~~
13 ~~charge, to complete its investigation. If the commission fails~~
14 ~~to issue a final order within the six month period then the~~
15 ~~changes proposed by the carrier shall go into effect. At any~~
16 ~~hearing involving a change in a rate, fare, charge, or~~
17 ~~classification, or in a rule or practice, the burden of proof~~
18 ~~shall be upon the carrier to show that the proposed changed~~
19 ~~rate, fare, charge, classification, rule, or practice is just~~
20 ~~and reasonable. In exercising its authority under this~~
21 ~~subsection and subsection (e), the commission shall consider the~~
22 ~~factors regarding reasonableness set forth in section 12(e).~~



1 ~~(e) When a fare or rate increase application is filed, the~~
2 ~~commission, in its discretion, may authorize temporary increases~~
3 ~~in rates, fares, and charges, upon a prima facie showing by a~~
4 ~~Hawaii air carrier that such fares, rates, or charges are just~~
5 ~~and reasonable; provided that the commission by order shall~~
6 ~~require the carrier to keep an accurate account of all amounts~~
7 ~~received from the increase. The commission, after hearing and~~
8 ~~decision, shall require a carrier to refund the portion of the~~
9 ~~increased rates or charges found to be not justified to persons~~
10 ~~in whose behalf the amounts were paid.] "~~

11 12. By amending subsection (a) of section 261E-20 to read:

12 "(a) As of the effective date of enactment of all required
13 federal legislation, any [person] certified air carrier
14 providing air transportation with turnaround service between two
15 points, both of which are within the State of Hawaii [~~pursuant~~
16 ~~to authority granted by the United States Department of~~
17 ~~Transportation]~~, shall be deemed qualified and shall be issued a
18 certificate of public convenience and necessity pursuant to this
19 chapter."

20 13. By repealing section 261E-15.

21 ~~["§261E-15 Issuance of securities; execution of leases. A~~
22 ~~Hawaii air carrier, with the approval of the air carrier~~



1 ~~commission, may issue stocks and stock certificates, bonds,~~
2 ~~notes, and other evidences of indebtedness, payable at periods~~
3 ~~of more than twelve months after the date thereof, and enter~~
4 ~~into long term leases of more than five years and leverage~~
5 ~~leases, for the following purposes:~~

6 ~~(1) For the acquisition or use of property;~~

7 ~~(2) For the construction, completion, extension, or~~
8 ~~improvement of or addition to its facilities or~~
9 ~~service;~~

10 ~~(3) For the discharge or lawful refunding of its~~
11 ~~obligations; and~~

12 ~~(4) For the reimbursement of moneys actually expended from~~
13 ~~income or from any other moneys in its treasury not~~
14 ~~secured by or obtained from the issue of its stocks or~~
15 ~~stock certificates, or bonds, notes, or other~~
16 ~~evidences of indebtedness, except maintenance of~~
17 ~~service, replacements, and substitutions not~~
18 ~~constituting capital expenditure in cases where the~~
19 ~~air carrier has kept its accounts for the expenditure~~
20 ~~in a manner as to enable the commission to ascertain~~
21 ~~the amount of moneys expended and the purposes for~~



1 ~~which the expenditures were made and the sources of~~
2 ~~the funds in its treasury applied to the expenditures.~~

3 ~~A Hawaii air carrier may not issue securities or enter into~~
4 ~~long term leases of more than three years and leverage leases,~~
5 ~~to acquire or use property or to construct, complete, extend,~~
6 ~~improve, or add to its facilities or service, if the commission~~
7 ~~determines that the proposed transaction will have a material~~
8 ~~adverse effect on the carrier's operations. No carrier shall~~
9 ~~repurchase or reissue its own common stock without the approval~~
10 ~~of the commission.~~

11 ~~This section shall apply to a transaction involving a~~
12 ~~related company to the extent that the commission determines~~
13 ~~that the transaction may have a potential impact upon the~~
14 ~~relevant Hawaii air carrier or its operations. A related~~
15 ~~company shall notify the commission of any transaction at least~~
16 ~~sixty days prior to its consummation."]~~

17 SECTION 2. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 3. This Act shall take effect upon its approval;
20 provided that chapter 261E, Hawaii Revised Statutes, and the
21 amendments made thereto by this Act shall take effect upon the
22 enactment of federal legislation permitting the implementation

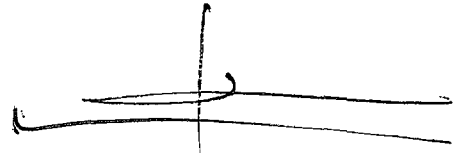


S.B. NO. 487

1 of that chapter, pursuant to Act 1, First Special Session Laws
2 of Hawaii 2008.

3

INTRODUCED BY: _____

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By Request



Report Title:

Hawaii Interisland Airlines Regulation

Description:

Amends chapter 261E, HRS, related to the regulation of Hawaii interisland air carriers; expands the application of chapter language; deletes issuance of securities and adds capacity discussions.

