

A Bill for an Act Relating to the Hawaii Water Carrier Law.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read:

**“CHAPTER  
HAWAII WATER CARRIER ACT**

**Sec. -1** This chapter shall be called the Hawaii Water Carrier Law.

**Sec. -2 Declaration of policy.** The legislature of this State recognizes and declares that the transportation of persons and of property, for commercial purposes, by water within the State or between points within the State, constitutes a business affected with the public interest. It is intended by this chapter to provide for fair and impartial regulation of such transportation, so administered as to recognize and preserve the inherent advantages of such transportation, in the interest of preserving for the public the full benefit and use of the waterways consistent with the public safety and the needs of commerce: to promote safe, adequate, economical, and efficient service among carriers, to encourage the establishment and maintenance of reasonable rates and charges for transportation and related accessorial service, without unjust discrimination, undue preference or advantage, or unfair or destructive competitive practices, all to the end of developing, coordinating, and preserving a sound transportation system by water. This chapter shall be administered and enforced with a view to carrying out the above declaration of policy.

**Sec. -3 Administration; governing provisions of other acts.** This chapter shall be administered by the public utilities commission of the State and the provisions of this chapter and of chapter 269, not inconsistent with this chapter, shall govern its administration; provided that sections 269-4, 269-11, and 269-16 to 269-28 shall not, in any respect, apply to the regulation of water carriers.

**Sec. -4 Application of chapter, interstate, or foreign commerce.** This chapter shall not apply to commerce with foreign nations or to interstate commerce, except insofar as the application is permitted under the Constitution and laws of the United States.

**Sec. -5 Definitions.** As used in this chapter:

- (1) "Chapter" means this Water Carrier Law.
- (2) "Commission" means the public utilities commission.
- (3) "Person" or "persons" means any individual, firm, copartnership, corporation, company, association, or joint stock association; and includes any trustee, receiver, assignee, or personal representative thereof.
- (4) "Certificate" means a certificate of public convenience and necessity issued under this chapter to common carriers by water.
- (5) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of persons transported and the receipt, carriage, and delivery of these persons and their baggage.
- (6) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, and delivery, carriage, preservation, and all incidental services affecting these activities.
- (7) "Water carrier" or "common carrier by water" means any person who holds himself out to the general public as engaging in the transportation by water of passengers or property for compensation within the State or between points within the State.
- (8) "Vessel" means any watercraft or other artificial contrivance of whatever description which is used, or capable of being used, or intended to be used, as a means of transportation by water.
- (9) "Rates" includes rates, fares, tolls, rentals, and charges of whatever kind and nature unless the context indicates otherwise.
- (10) "Related companies" means companies or persons that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the water carrier. The term "control," in reference to a relationship between any person or persons and another person or persons, includes actual as well as legal control, and indirect as well as direct control.

**Sec. -6 Exemptions, generally.** Notwithstanding any other provisions of this chapter, its contents shall not apply to:

- (1) Persons transporting their own property where the transportation is in furtherance of a primary business purpose or enterprise of that person except where the transportation is undertaken by a water carrier to evade the regulatory purposes of this chapter;
- (2) Nonprofit agricultural cooperative associations to the extent that they engage in the transportation of their own property or the property of their members;
- (3) Persons engaged in the transportation over water of passengers or property for compensation, other than transportation referred to in -5(-7) under continuing contracts with one person or a limited number of persons either (A) for the furnishing of transportation services through the assignment of vessels for a continuing period of time to the exclusive use of each person served, or (B) for the

furnishing of transportation services designed to meet the distinct need of each individual customer;

- (4) Persons transporting their own property or employees where the transportation is in furtherance of a business or enterprise of fishing or taking of fish for profit or gain as a means of livelihood;
- (5) Persons engaged in business of transporting persons for sightseeing and other recreational activities.

**Sec. -7 General duties and powers of the commission.** The general duties and powers of the public utilities commission shall be:

- (1) To regulate water carriers, and to that end the commission shall have and utilize the investigative powers set forth in section 7 of chapter 269 as well as all of the duties and powers specifically enumerated in this chapter, and water carriers shall be subject to the duties set forth in sections 8 and 9 of chapter 269 as well as all of the duties specifically enumerated herein.
- (2) To establish such just and reasonable classifications of water carriers as the special nature of the services performed by the carriers shall require, and such just and reasonable rules, regulations, and requirements, consistent with this chapter, to be observed by the carriers so classified or grouped, as the commission deems necessary or desirable in the public interest. Such classifications, rules, regulations, and requirements shall be adopted and promulgated pursuant to the provisions of chapter 91 and shall have the force and effect of law.
- (3) Upon complaint in writing to the commission by any person or body politic, or upon its own initiative without complaint, the commission may investigate whether any water carrier has failed to comply with any provision of this chapter, or with any rule or order adopted or issued hereunder.

**Sec. -8 Reports and decisions of commission.** Whenever the public utilities commission inquires into the operations, operating rights, rates, safety of operations, or directs inquiry and investigation into water carrier activities regulated under this chapter, and holds public hearing thereon, it shall make a report in writing in respect thereto, which shall state its findings of fact and conclusions of law, together with its decision, order, or requirement in the premises. The provisions of chapter 91 shall apply.

**Sec. -9 Copies of schedules, tariffs, contracts, etc., kept as public records; evidence.** The copies of schedules and classifications and tariffs or rates, fares, and charges, and all contracts, agreements and arrangements between water carriers filed with the public utilities commission as herein provided, and any reports filed with the commission as required under this chapter shall be preserved as public records.

**Sec. -10 Applications for certificates of public convenience and necessity.** (a) Except as otherwise provided in this section and in sections -6 and -12, no water carrier shall engage in operations between points within the State, unless such carrier holds a certificate of public convenience and

necessity issued by the public utilities commission authorizing such operation, provided, however, that no new application shall be required for any common carrier by water who is the holder of a certificate of public convenience and necessity issued by the public utilities commission.

(b) Applications for certificates shall be made in writing to the commission, be verified under oath, and shall be in such form and contain such information, and be accompanied by proof of service upon interested parties as the commission shall, by regulation, require.

(c) A certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operations covered by the application if it is found that the applicant is fit, willing, and able properly to perform the service proposed and to conform to this chapter and the requirements, rules, and regulations of the commission thereunder, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise the application shall be denied.

(d) Any water carrier transporting passengers under any such certificate may occasionally deviate from the route over which it is authorized to operate under the certificate under such rules and regulations as the commission may prescribe.

**Sec. -11 No proprietary right in water.** No certificate issued under this chapter confers any proprietary or property right in the use of the waterways.

**Sec. -12 Temporary authority.** To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting the need, the public utilities commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a water carrier. The temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify, but for no more than a period of one hundred twenty days for any one immediate and urgent need.

**Sec. -13 Security for protection of public.** No certificate shall be issued to a water carrier or remain in force unless such carrier complies with such reasonable rules and regulations as the public utilities commission shall prescribe governing the filing and approval of surety bonds, policies of insurance, qualifications as a self-insurer, or other securities or agreements, in such reasonable amounts as the commission may require.

**Sec. -14 Transfer of certificates of public convenience and necessity, and carrier property.** (a) For the purpose of the administration and application of subsections (a) and (b), the term "carrier" includes any water carrier subject to this chapter, or any carrier subject to the act of any other state or any act of the Congress of the United States under which interstate or foreign commerce by land, sea, or air, is regulated.

(b) No water carrier shall sell, lease, assign, mortgage, or otherwise dispose of, or encumber the whole or any part of its property necessary or useful in the performance of transportation services for the public or any

certificate of public convenience and necessity; nor shall any water carrier, by any means, directly or indirectly, merge or consolidate its property, certificates of public convenience and necessity, or any part thereof, with any other carrier, without first having secured from the public utilities commission an order authorizing it so to do, and every such sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, made other than in accordance with an order of the commission authorizing the same is void.

(c) No water carrier shall purchase or acquire, take or hold, any part of the capital stock of any other water carrier organized or existing under or by virtue of the laws of the State, without having been first authorized to do so by the commission. Every assignment or transfer of any stock by or through any person to any person, or otherwise, in violation of any of the provisions of this section is void and of no effect, and no transfer shall be made on the books of any water carrier. Nothing herein shall prevent the holding of stock heretofore lawfully acquired.

(d) Whenever a transaction is proposed under subsection (b) or (c) of this section, the water carrier or water carriers, or person or persons, seeking approval thereof shall present an application to the commission in such form as the commission may require and the commission may thereupon act upon the application with or without first holding a public hearing; provided, that if requested, it shall afford reasonable opportunity for interested parties to be heard. If the commission finds that subject to such terms and conditions as it shall find to be just and reasonable the proposed transaction will be consistent with the public interest, the commission shall enter an order approving and authorizing the transaction, upon the terms and conditions, and with the modifications, so found to be just and reasonable.

(e) Nothing in this section shall be construed to require a water carrier to secure from the commission authority to lease vessels, vessel equipment, or vessel towing equipment from another water carrier for the purpose of meeting the requirements of transportation, to execute any conditional sales contract for the purchase of vessels or equipment or any note and chattel mortgage on vessels or equipment securing the payment of all or any part of the purchase price of vessels or equipment; nor shall this section prevent the sale, lease, encumbrance, or other disposition by any water carrier of property which is not necessary or useful in the performance of its duties to the public, and any disposition of property by a water carrier shall be conclusively presumed to be property which is not necessary or useful in the performance of its duties to the public as to any purchaser, lessee, or encumbrancer dealing with such property in good faith and for value.

(f) Pending the determination of an application filed with the commission for approval of a consolidation or merger of the properties of two or more water carriers, or of a purchase, lease, charter, or contract to operate the properties of one or more water carriers, the commission may, in its discretion and without hearings or other proceedings, grant temporary approval, for a period not exceeding one hundred twenty days or for such additional period as the determination of an application may require, of the operation of the water carrier properties sought to be acquired by the persons proposing in the pending application to acquire the properties, if it shall appear that failure to grant

this temporary approval may result in destruction of or injury to such water carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

**Sec. -15 Suspension, change, and revocation of certificates.** Certificates shall be effective from the date specified therein, and shall remain in effect until suspended or terminated as herein provided. Any certificate may, upon application of the holder thereof, in the discretion of the public utilities commission, be amended or revoked, in whole or in part, or may upon complaint, or on the commission's own initiative, after notice and hearing, be suspended, changed, or revoked, in whole or in part, for wilful failure to comply with any provisions of this chapter, or with any lawful order, rule, or regulation of the commission promulgated thereunder, or with any term, condition, or limitation of the certificate; provided that no such certificate shall be revoked (except upon application of the holder) unless the holder thereof wilfully fails to comply within a reasonable time, not less than thirty days, to be fixed by the commission, with a lawful order or the commission, made as provided in this chapter, commanding obedience to this chapter, or to the rule or regulation of the commission thereunder, or to the term, condition, or limitation of the certificate or permit, found by the commission to have been violated by the holder; and provided further that the right to engage in transportation by virtue of any certificate or any application filed pursuant to section -10 or by virtue of temporary authority under section -12 may be suspended by the commission, upon reasonable notice of not less than fifteen days to the carrier, but without hearing or other proceedings, for failure to comply, and until compliance, with section -17(a) or with any lawful order, rule, or regulation of the commission promulgated thereunder.

**Sec. -16 Rates, fares and charges of common carriers by water.** (a) It shall be the duty of every water carrier of passengers to provide safe and adequate service, equipment, and facilities for the transportation of passengers and to establish, observe, and enforce just and reasonable rates, fares, and charges, and just and reasonable regulations and practices relating thereto, and to the issuance, form, and substance of tickets, the carrying of personal, sample, and excess baggage, the facilities for transportation, and all other matters relating to or connected with the transportation of passengers.

(b) It shall be the duty of every water carrier of property to provide safe and adequate service, equipment, and facilities for the transportation of property and to establish, observe, and enforce just and reasonable rates, charges, and classifications, and just and reasonable regulations and practices relating thereto, and to the manner and method of presenting, marking, packing, and delivering property for transportation, the facilities for transportation, and all other matters relating to or connected with the transportation of property.

(c) All charges made for any service rendered by any water carrier in the transportation of passengers or property or in connection therewith shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof, is prohibited and declared to be unlawful. It shall be unlawful for any water carrier to make, give, or cause any undue or un-

reasonable preference or advantage to any particular person, locality, region, district, island, or description of traffic, in any respect whatsoever; or to subject any particular person, locality, region, district, island, or description of traffic to any unjust discrimination or undue or unreasonable prejudice or disadvantage in any respect whatsoever; provided that this subsection shall not be construed to apply to discrimination, prejudice, or disadvantage to the traffic of any other carrier of whatever description.

(d) Any person or body politic may make complaint in writing to the commission that any such rate, fare, charge, rule, regulation, or practice, in effect or proposed to be put into effect, is or will be in violation of this section. Whenever, after hearing, upon complaint or in an investigation on its own initiative, the commission shall be of the opinion that any individual rate, fare, or charge, demand, charged, or collected by any common carrier or carriers by water for transportation, or any rule, regulation, or practice whatsoever of the carrier or carriers affecting such rate, fare, or charge or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate, fare, or charge or the maximum or minimum or maximum and minimum rate, fare, or charge thereafter to be observed, or the lawful rule, regulation, or practice thereafter to be made effective.

(e) In the exercise of its power to prescribe just and reasonable rates, fares, and charges for the transportation of passengers or property by water carriers, and to prescribe classifications, regulations, and practices relating thereto, the commission shall give due consideration, among other factors, to the effect of rates upon the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient transportation service by the carriers at the lowest cost consistent with the furnishing of the service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management, to provide the service.

(f) Nothing in this section shall be held to extinguish any remedy or right of action not inconsistent herewith.

**Sec. -17 Tariffs of water carriers.** (a) Every water carrier shall file with the public utilities commission, and print, and keep open to public inspection, tariffs showing all the rates, fares, and charges for transportation, and all services in connection therewith, of passengers or property. The rates, fares, and charges shall be stated in terms of lawful money of the United States. The tariffs required by this section shall be published, filed, and posted in such form and manner, and shall contain such information as the commission by regulations shall prescribe; and the commission may reject any tariff filed with it which is not in consonance with this section and with the regulations. Any tariff so rejected by the commission shall be void and its use shall be unlawful.

(b) No change shall be made in any rate, fare, charge, or classification, or any rule, regulation, or practice affecting the rate, fare, charge, or classification, or the value of the service thereunder, specified in any effective tariff of a water carrier, except after forty-five days' notice of the proposed change

filed and posted in accordance with subsection (a) of this section. The notice shall plainly state the change proposed to be made and the time when it will take effect. The commission may in its discretion and for good cause shown allow the change upon notice less than that herein specified or modify the requirements of this section with respect to posting and filing of tariffs either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

(c) No water carrier shall engage in the transportation of passengers or property unless the rates, fares, and charges upon which the same are transported by the carrier have been filed and published in accordance with this chapter.

(d) Whenever there is filed with the commission any schedule stating a new rate, fare or charge, for the transportation of passengers or property by a water carrier or any rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the carrier may on its own initiative, or shall by order of the commission served prior to the effective date of the schedule, file a pro forma statement of account which shall be prepared under the same form and in the same manner as prescribed by the commission's uniform system of accounts. An order of the commission requiring the filing of a pro forma statement may also order suspended the operation of the schedule, and may forbid the carrier to use the rate, fare, or charge, or the rule, regulation, or practice pending the procedures hereinafter set forth. Within fourteen days after receipt by the commission of the pro forma statement, the commission may either permit the rate, fare, or charge, or the rule, regulation, or practice to become effective on not less than one day's notice; or suspend it for a further period, not to exceed six months.

**Sec. -18 Accounts, records, and reports.** The public utilities commission may require annual, periodical, or special reports from all water carriers, prescribe the manner and form in which the reports shall be made, and require from the carriers specific and full, true, and correct answers to all questions upon which the commission may deem information to be necessary.

**Sec. -19 Unlawful operation.** (a) Any person knowingly and wilfully violating any provision of this chapter, or violating any certificate for which violation a penalty is not otherwise herein provided, shall be fined not less than \$100 nor more than \$500 for the first offense, and not less than \$200 nor more than \$500 for any subsequent offense. Each day of such violation shall constitute a separate offense.

(b) Any person, whether carrier, shipper, or consignee, or any officer, employee, agent, or representative thereof, who knowingly offers, grants, or gives, or solicits, accepts, or receives any rebate, concession, or discrimination in violation of any provisions of this chapter, or who by means of any false statement or representation or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, knowingly and wilfully assists, suffers, or permits any person or persons, natural or artificial, to obtain transportation of passengers or property subject to this chapter for less than the applicable rate, fare, or charge, or who knowingly and wilfully by



any such means or otherwise fraudulently seeks to evade or defeat regulation as in this chapter provided for water carriers, shall be fined not less than \$200 nor more than \$500 for the first offense and not less than \$250 nor more than \$2,000 for any subsequent offense.

(c) Any special agent, accountant, or examiner who knowingly and wilfully divulges any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of section -18, except as he may be directed by the commission or by a court or judge thereof, shall be guilty of a misdemeanor, and shall be subject to a fine of not more than \$500 or imprisonment for not exceeding one year, or both.

(d) Any water carrier, or any officer, agent, employee, or representative thereof, who shall fail or refuse to comply with any provision of this chapter, or any rule, regulation, requirement or order thereunder, shall pay a penalty to the State in the sum of \$100 for each offense, and, in the case of a continuing violation, not to exceed \$50 for each additional day during which the failure or refusal continues. A penalty shall become due and payable when the person incurring it receives a notice in writing reasonably describing the violation and advising that the penalty is due.

**Sec. -20 Collection of rates and charges.** No water carrier shall deliver or relinquish possession at destination of any freight transported by it until all tariff rates and charges thereon have been paid if such delivery or relinquishment without payment of all such rates and charges has been prohibited or restricted by rules and regulations of the commission, and if so prohibited and restricted, then delivery or relinquishment shall be made only under such rules and regulations as the public utilities commission may from time to time prescribe to govern the settlement of all the rates and charges, including rules and regulations for weekly or monthly settlement, and to prevent unjust discrimination or undue preference or prejudice; provided that this section shall not be construed to prohibit any carrier from extending credit in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any state or political subdivision thereof.

**Sec. -21 Recovery of overcharges or undercharges.** (a) All actions by water carriers or common carriers by water for the recovery of their charges, or any part thereof, shall be begun within three years from the time the cause of action accrues, and not after.

(b) For recovery of overcharges, actions shall be begun within three years from the time the cause of action accrues, and not after, subject to subsection (c) of this section, except that if claim for the overcharge has been presented in writing to the carrier within the three-year period of limitation the period shall be extended to include six months from the time notice in writing is given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof specified in the notice.

(c) If on or before the expiration of the three-year period of limitation in subsection (b) a common carrier by water begins action under subsection (a) for recovery of charges in respect of the same transportation service, or, without beginning action, collects charges in respect of that service, the period

shall be extended to include ninety days from the time the action is begun or the charges are collected by the carrier.

(d) The cause of action in respect of a shipment of property shall, for the purpose of this section, be deemed to accrue upon delivery or tender of delivery thereof by the carrier, and not after.

(e) The term "overcharges" as used in this section means charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the commission.

**Sec. -22 Allowance to shippers for transportation services.** If the shipper of property transported under this chapter, directly or indirectly, renders any service connected with the transportation, or furnishes any instrumentality used therein, the charge and allowance therefor shall be published in tariffs or schedules filed in the manner provided in this chapter and shall be no more than is just and reasonable; and the public utilities commission may, after hearing on a complaint or on its own initiative, determine what is a reasonable charge as the maximum to be paid by the carrier or carriers for the services so rendered or for the use of the instrumentality so furnished, and fix the same by appropriate order.

**Sec. -23 Hearings.** (a) All hearings, investigations, and proceedings shall be governed by chapter 91 and by rules of practice and procedure adopted by the public utilities commission, and in the conduct thereof, the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding, or in the manner of taking testimony shall invalidate any order, decision or rule made, approved, or confirmed by the commission.

(b) Complaints may be made, in writing, by the commission on its own motion or by any person or body politic setting forth any act or thing done, or omitted to be done by any water carrier, including any rule, regulation, rate, or charge, heretofore established or fixed by or for any water carrier, in violation or claimed to be in violation, of any law or of any order or rule of the commission agreement if approval thereof is not prohibited by subsection (c) if it finds that, by reason of furtherance of the transportation policy declared in this chapter, the relief provided in subsection (e) should apply with respect to the making and carrying out of the agreement; otherwise, the application shall be denied.

**Sec. -24 Appeals.** From an order of the public utilities commission under this chapter, an appeal shall lie to the supreme court in the manner and within the time provided by the rules of court for an appeal from a judgment of a circuit court, provided the order is final, or if preliminary is of the nature defined by section 91-14(a). The appeal shall not of itself stay the operation of the order appealed from, but the supreme court may stay the same after a hearing upon a motion therefor, and may impose such conditions as it may deem proper as to giving a bond and keeping the necessary accounts or otherwise to secure a restitution of the excess charges, if any, made during the pendency of the appeal in case the order appealed from should be sustained, revised, or modified in whole or in part.

**Sec. -25 Agreement between carriers.** (a) For purposes of this section the term "anti-trust laws" means any law of the State previously enacted pertaining to unlawful restraints of trade and monopolies.

(b) Any carrier party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation, or establishment thereof, may, under such rules and regulations as the public utilities commission may prescribe, apply to the commission for approval of the agreement, and the commission shall by order approve any agreement, if approval thereof is not prohibited by subsection (d) or (e), if it finds that, by reason of furtherance of the transportation policy declared in this chapter, the relief provided in subsection (e) should apply with respect to the making and carrying out of the agreement; otherwise, the application shall be denied.

(c) The commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that the agreement is of the character described in subsection (b) of this section and is limited to matters relating to transportation under joint rates or over through routes; and for purpose of this subsection carriers by aircraft are carriers of one class; carriers by motor vehicles are carriers of one class; carriers by water are carriers of one class.

(d) The commission is authorized upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which the approval was granted is not or are not in conformity with the standard set forth in subsection (b), or whether any such terms and conditions are not necessary for purposes of conformity with the standard, and, after the investigation, the commission shall by order terminate or modify its approval of the agreement if it finds the action necessary to insure conformity with the standard, and shall modify the terms and conditions upon which the approval was granted to the extent it finds necessary to insure conformity with the standard or to the extent to which it finds the terms and conditions not necessary to insure each conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the commission determines to be reasonably necessary to avoid undue hardship.

(e) Parties to any agreement approved by the commission under this section and other persons are, if the approval of such agreement is not prohibited by subsection (c), relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of the agreement in conformity with the terms and conditions prescribed by the commission."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 31, 1974.)