

Prior sections 11303 and 11304 were omitted in the general amendment of this subtitle by Pub. L. 104-88, §102(a).

Section 11303, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1430; Pub. L. 103-272, §5(m)(30), July 5, 1994, 108 Stat. 1378, related to filing and recording of mortgages, leases, equipment trusts, and other agreements with Interstate Commerce Commission. See section 11301 of this title.

Section 11304, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1431; Pub. L. 96-258, §1(12), June 3, 1980, 94 Stat. 426, related to security interests in certain motor vehicles. See section 14301 of this title.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104-287 substituted “January 1, 1996” for “the effective date of the ICC Termination Act of 1995”.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

ABOLITION OF INTERSTATE COMMERCE COMMISSION

Interstate Commerce Commission abolished by section 101 of Pub. L. 104-88, set out as a note under section 1301 of this title.

SUBCHAPTER II—COMBINATIONS

§ 11321. Scope of authority

(a) The authority of the Board under this subchapter is exclusive. A rail carrier or corporation participating in or resulting from a transaction approved by or exempted by the Board under this subchapter may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction. However, if a purchase and sale, a lease, or a corporate consolidation or merger is involved in the transaction, the carrier or corporation may carry out the transaction only with the assent of a majority, or the number required under applicable State law, of the votes of the holders of the capital stock of that corporation entitled to vote. The vote must occur at a regular meeting, or special meeting called for that purpose, of those stockholders and the notice of the meeting must indicate its purpose.

(b) A power granted under this subchapter to a carrier or corporation is in addition to and changes its powers under its corporate charter and under State law. Action under this subchapter does not establish or provide for establishing a corporation under the laws of the United States.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 838.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11341 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 11321, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1432, related to limitations on ownership of certain water carriers, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 11322. Limitation on pooling and division of transportation or earnings

(a) A rail carrier providing transportation subject to the jurisdiction of the Board under this part may not agree or combine with another of those rail carriers to pool or divide traffic or services or any part of their earnings without the approval of the Board under this section or section 11123 of this title. The Board may approve and authorize the agreement or combination if the rail carriers involved assent to the pooling or division and the Board finds that a pooling or division of traffic, services, or earnings—

- (1) will be in the interest of better service to the public or of economy of operation; and
- (2) will not unreasonably restrain competition.

(b) The Board may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the rail carriers.

(c) The Board may begin a proceeding under this section on its own initiative or on application.

(Added Pub. L. 104-88, title I, §102(a), Dec. 29, 1995, 109 Stat. 838.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 11342 of this title prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a).

A prior section 11322, Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1433, related to restrictions on officers and directors of carriers, prior to the general amendment of this subtitle by Pub. L. 104-88, §102(a). See section 11328 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1996, except as otherwise provided in Pub. L. 104-88, see section 2 of Pub. L. 104-88, set out as a note under section 1301 of this title.

§ 11323. Consolidation, merger, and acquisition of control

(a) The following transactions involving rail carriers providing transportation subject to the jurisdiction of the Board under this part may be carried out only with the approval and authorization of the Board:

- (1) Consolidation or merger of the properties or franchises of at least 2 rail carriers into one corporation for the ownership, management, and operation of the previously separately owned properties.
- (2) A purchase, lease, or contract to operate property of another rail carrier by any number of rail carriers.
- (3) Acquisition of control of a rail carrier by any number of rail carriers.
- (4) Acquisition of control of at least 2 rail carriers by a person that is not a rail carrier.