

§ 62-111. Transfers of franchises; mergers, consolidations and combinations of public utilities.

(a) No franchise now existing or hereafter issued under the provisions of this Chapter other than a franchise for motor carriers of passengers shall be sold, assigned, pledged or transferred, nor shall control thereof be changed through stock transfer or otherwise, or any rights thereunder leased, nor shall any merger or combination affecting any public utility be made through acquisition of control by stock purchase or otherwise, except after application to and written approval by the Commission, which approval shall be given if justified by the public convenience and necessity. Provided, that the above provisions shall not apply to regular trading in listed securities on recognized markets.

(b) No certificates issued under the provisions of this Chapter for motor carriers of passengers shall be sold, assigned, pledged, transferred, or control changed through stock transfer or otherwise, or any rights thereunder leased, nor shall any merger or combination affecting any motor carrier of passengers be made through acquisition of control by stock purchases or otherwise, except after application to and written approval by the Commission as in this section provided, provided that the above provisions shall not apply to regular trading in listing securities on recognized markets. The applicant shall give not less than 10 days' written notice of such application by registered mail or by certified mail to all connecting and competing carriers. When the Commission is of the opinion that the transaction is consistent with the purposes of this Chapter the Commission may, in the exercise of its discretion, grant its approval, provided, however, that when such transaction will result in a substantial change in the service and operations of any motor carrier of passengers party to the transaction, or will substantially affect the operations and services of any other motor carrier, the Commission shall not grant its approval except upon notice and hearing as required in G.S. 62-262.1 for bus companies upon an application for an original certificate. In all cases arising under the subsection it shall be the duty of the Commission to require the successor carrier to satisfy the Commission that the operating debts and obligations of the seller, assignor, pledgor, lessor or transferor, including taxes due the State of North Carolina or any political subdivision thereof are paid or the payment thereof is adequately secured. The Commission may attach to its approval of any transaction arising under the section such other conditions as the Commission may determine are necessary to effectuate the purposes of this Article.

(c) No sale of a franchise for a motor carrier of household goods shall be approved by the Commission until the seller shall have filed with the Commission a statement under oath of all debts and claims against the seller, of which such seller has any knowledge or notice, (i) for gross receipts, use or privilege taxes due or to become due the State, as provided in the Revenue Act, (ii) for wages due employees of the seller, other than salaries of officers and in the case of motor carriers, (iii) for unremitted C.O.D. collections due shippers, (iv) for loss of or damage to goods transported, or received for transportation, (v) for overcharges on property transported, and, (vi) for interline accounts due other carriers, together with a bond, if required by the Commission, payable to the State, executed by a surety company authorized to do business in the State, in an amount double the aggregate of all such debts and claims conditioned upon the payment of the same within the amount of such bond as the amounts and validity of such debts and claims are established by agreement of the parties, or by judgment. This subsection shall not be applicable to sales by personal representatives of deceased or incompetent persons, receivers or trustees in bankruptcy under court order.

(d) No person shall obtain a franchise or certificate for the purpose of transferring the same to another, and an offer of such transfer within one year after the same was obtained shall be prima facie evidence that such franchise or certificate was obtained for the purpose of sale.

(e) The Commission shall approve applications for transfer of motor carrier franchises made under this section upon finding that said sale, assignment, pledge, transfer, change of

control, lease, merger, or combination is in the public interest, will not adversely affect the service to the public under said franchise, will not unlawfully affect the service to the public by other public utilities, that the person acquiring said franchise or control thereof is fit, willing and able to perform such service to the public under said franchise, and that service under said franchise has been continuously offered to the public up to the time of filing said application or in lieu thereof that any suspension of service exceeding 30 days has been approved by the Commission as provided in G.S. 62-112(b)(5). Provided, however, the Commission shall approve, without imposing conditions or limitations, applications for the transfer of a bus company franchise made under this section upon finding that the person acquiring the franchise or control of the franchise is fit, willing and able to perform services to the public under that franchise.

(f) The following provisions apply to an application for the grant or transfer of a certificate of public convenience and necessity for a water or wastewater system:

- (1) Within 30 days of the filing of such application, the Commission shall (i) determine whether or not the application is complete and notify the applicant accordingly and (ii) if the Commission determines an application is incomplete, specify all such deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the Commission for the Commission's review. If the Commission fails to issue a notice as to whether or not the application is complete within the requisite 30-day period, the application shall be deemed complete. Within 300 days of the filing of a completed application, the Commission shall issue an order approving the application upon finding that the proposed grant or transfer, including adoption of existing or proposed rates for the transferring utility, is in the public interest, will not adversely affect service to the public under any existing franchise, and the person acquiring said franchise or certificate of public convenience and necessity has the technical, managerial, and financial capabilities necessary to provide public utility service to the public. The requirements of this subdivision shall apply to any applications for grants or transfers of a water or wastewater system sought as a result of a proposed sale of a privately owned water or wastewater system to a public or private entity, except with respect to those applications governed by subdivision (2) of this subsection.
- (2) Within 30 days of the filing of such application, the Commission shall (i) determine whether or not the application is complete and notify the applicant accordingly and (ii) if the Commission determines an application is incomplete, specify all such deficiencies in the notice to the applicant. The applicant may file an amended application or supplemental information to cure the deficiencies identified by the Commission for the Commission's review. If the Commission fails to issue a notice as to whether or not the application is complete within the requisite 30-day period, the application shall be deemed complete. Within 210 days of the filing of a completed application, the Commission shall issue an order approving the application upon finding that the proposed grant or transfer, including adoption of existing or proposed rates for the transferring utility, is in the public interest, will not adversely affect service to the public under any existing franchise, and the person acquiring said franchise or certificate of public convenience and necessity has the technical, managerial, and financial capabilities necessary to provide public utility service to the public. The requirements of this subdivision shall apply to any applications for grants or transfers of a water or

wastewater system sought as a result of a proposed sale of a privately owned water or wastewater system to a public or private entity, where the water or wastewater system has an unresolved notice of violation issued by the Department of Environmental Quality within the 24-month period immediately preceding the date of application.

- (3) Prior to submittal of an application, and within 90 days of entering into an offer to purchase agreement for a water or wastewater system, a proposed purchaser shall have a pre-application conference with the Commission and Public Staff to clarify application requirements, information on assets that must be provided, and associated matters.
- (4) An applicant for the grant or transfer of a certificate of public convenience and necessity for a water or wastewater system may waive any deadline for determination of an application's completeness, or issuance of an order approving an application, set forth in subdivision (1) or (2) of this subsection. (1947, c. 1008, s. 22; 1949, c. 1132, s. 20; 1953, c. 1140, s. 3; 1957, c. 1152, s. 10; 1961, c. 472, ss. 6, 7; 1963, c. 1165, s. 1; 1967, c. 1202; 1985, c. 676, ss. 10, 11; 1995, c. 523, s. 2; 2021-23, s. 13; 2023-67, s. 1(a).)