

ACT 138

H.B. NO. 24

A Bill for an Act Relating to Water Common Carriers.

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

SECTION 1. Section 271G-17.5, Hawaii Revised Statutes, is amended to read as follows:

**“~~[[[§271G-17.5]]] Issuance of securities~~~~]; execution of leases].~~ (a)** A water common carrier may, on securing the prior approval of the public utilities commission, and not otherwise~~[-issue]~~:

- (1) Enter into vessel leases longer than five years;
- (2) Enter into leverage leases for vessels; or
- (3) Issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness, payable at periods of more than twelve months after the date thereof, ~~[and enter into long-term leases of more than three years and leverage leases,]~~ for the following purposes and no other, namely:

- ~~[(1)]~~ (A) For the acquisition of property; ~~[or]~~
- ~~[(2)]~~ (B) For the construction, completion, extension, or improvement of or addition to its facilities or service; ~~[or]~~
- ~~[(3)]~~ (C) For the discharge or lawful refunding of its obligations; or
- ~~[(4)]~~ (D) For the reimbursement of moneys actually expended from income or from any other moneys in its treasury not secured by or obtained from the issue of its stocks or stock certificates, or bonds, notes, or other evidences of indebtedness, for any of the aforesaid purposes, except maintenance of service, replacements, and substitutions not constituting capital ~~[expenditure]~~ expenditures in cases where the water carrier has kept its accounts for ~~[such]~~ the expenditures in ~~[such]~~ a manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which the expenditures were made, and the sources of the funds in its treasury applied to the expenditures.

(b) As used ~~[herein,]~~ in this section, “property” and “facilities” mean property and facilities used in all operations of a water carrier whether or not included in its regulated operations or rate base. A water carrier may not issue securities ~~[nor]~~, enter into ~~[long-term]~~ vessel leases ~~[of more than three]~~ longer than five years ~~[and]~~ or enter into leverage leases[;] for vessels, to acquire property or to construct, complete, extend ~~[or]~~, improve, or add to its facilities or service, if the commission determines that the proposed purpose will have a material adverse effect on its operations. No carrier shall repurchase or reissue its own common stock without prior commission approval.

(c) All stock and every stock certificate, and every bond, note, or other evidence of indebtedness of a water carrier not payable within twelve months, issued without an order of the commission authorizing the same, then in effect, shall be void. In addition, all ~~[long-term]~~ vessel leases ~~[of more than three]~~ longer than five years and all leverage leases entered into by a water carrier for vessels without an order of the commission authorizing the same then in effect shall be void.”

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

SECTION 3. This Act shall take effect upon its approval.

(Approved June 29, 2023.)