
A BILL FOR AN ACT

RELATING TO SMALL BOAT HARBORS.

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

1 SECTION 1. The department of land and natural resources,
2 through its division of boating and ocean recreation, operates
3 and manages twenty-one harbors, fifty boat ramps, 2,122 moorings
4 and berths, and nineteen piers spread throughout the various
5 counties of the State. The legislature finds that these ocean
6 recreation facilities, in light of the present demand, are in
7 short supply and, in most cases where they exist, are in dire
8 need of long overdue repair and maintenance. Some facilities
9 are in such need of repair and replacement that they cannot be
10 used and pose public safety hazards.

11 One of these facilities, the Ala Wai harbor, has been the
12 recipient of some recent badly needed repair and replacement of
13 floating docks; however, the need for further maintenance
14 remains unfulfilled. In spite of its needs, the Ala Wai harbor
15 includes certain assets within its facilities that are under-
16 used and, if properly developed, can potentially generate
17 revenues that can benefit not only its continued improvement and

1 maintenance but also benefit the rest of the facilities now
2 operated by the division of boating and ocean recreation.

3 In these times of economic malaise and with the State
4 facing a massive budget deficit over the next biennium, the
5 State cannot afford the huge loss in the valuable asset that a
6 further decline of the State's small boat harbors would pose.

7 The purpose of this Act is to:

- 8 (1) Allow the limited issuance of commercial use permits
9 for vessels with assigned moorings in Ala Wai and
10 Keehi harbors;
- 11 (2) Provide for future mooring fees to be established by
12 appraisal by a state-licensed appraiser and assigned a
13 schedule B rate, while existing mooring holders remain
14 in a schedule A class that shall equal schedule B
15 rates over a five-year period; and
- 16 (3) Direct the department of land and natural resources to
17 use the request for proposals process to enter into a
18 public-private partnership for the development of
19 portions of Ala Wai harbor facilities that are
20 presently under-used to maximize the revenue potential
21 from its facilities.

1 SECTION 2. Section 200-2.5, Hawaii Revised Statutes, is
2 amended by amending subsections (b) and (c) to read as follows:

3 "(b) The permissible uses under any lease disposed of
4 under this section shall be consistent with the purpose for
5 which the land was set aside by the governor pursuant to section
6 171-11. Permissible uses may include any use that will
7 complement or support the ocean recreation or maritime
8 activities of state boating facilities.

9 (c) Disposition of public lands of state boating
10 facilities constructed, maintained, and operated in accordance
11 with this chapter shall not exceed a maximum term of [~~fifty-~~
12 ~~five]~~ sixty-five years."

13 SECTION 3. Section 200-8, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~+~~]**\$200-8[~~+~~]** **Boating program; payment of costs.** The cost
16 of administering a comprehensive statewide boating program,
17 including, but not limited to, the cost of:

18 (1) Operating, maintaining, and managing all boating
19 facilities under the control of the department;
20 provided that any fees collected within each small
21 boat harbor shall only be expended on costs related to
22 the operation, upkeep, maintenance, and improvement of

1 the small boat harbor from which the fee revenues were
2 collected;

3 (2) Improving boating safety;

4 (3) Operating a vessel registration and boating casualty
5 investigation and reporting system; and

6 (4) Other boating program activities,

7 shall be paid from the boating special fund. The amortization
8 (principal and interest) of the costs of capital improvements
9 for boating facilities appropriated after July 1, 1975,
10 including, but not limited to, berths, slips, ramps, related
11 accommodations, general navigation channels, breakwaters, aids
12 to navigation, and other harbor structures, may be paid from the
13 boating special fund or from general revenues as the legislature
14 may authorize in each situation. Revenues provided in this
15 chapter for the boating special fund shall be at least
16 sufficient to pay the special fund costs established in this
17 section."

18 SECTION 4. Section 200-9, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§200-9 Purpose and use of state small boat harbors.** (a)

21 State small boat harbors are constructed, maintained, and
22 operated for the purposes of:

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- 1 (1) Recreational boating activities;
- 2 (2) Landing of fish; and
- 3 (3) Commercial vessel activities.

4 For the purpose of this section, "recreational boating
5 activities" means the [~~utilization~~] use of watercraft for
6 sports, hobbies, or pleasure, and "commercial vessel activities"
7 means the [~~utilization~~] use of vessels for activities or
8 services provided on a fee basis. To implement these purposes,
9 only vessels in good material and operating condition that are
10 regularly navigated beyond the confines of the small boat
11 harbor[~~7~~] and [~~which~~] that are used for recreational activities,
12 the landing of fish, or commercial vessel activities shall be
13 permitted to moor, anchor, or berth at [~~such~~] a state small boat
14 harbor or use any of its facilities.

15 (b) Vessels used for purposes of recreational boating
16 activities [~~which~~] that are also the principal habitation of the
17 owners shall occupy no more than one hundred twenty-nine berths
18 at Ala Wai boat harbor and thirty-five berths at Keehi boat
19 harbor, which is equal to fifteen per cent of the respective
20 total moorage space that was available as of July 1, 1976, at
21 the Ala Wai and Keehi boat harbors. [~~Notwithstanding the~~
22 ~~purposes of small boat harbors, moorage for commercial vessels~~

1 ~~and commercial vessel activities is not permitted in the Ala Wai~~
2 ~~and Keehi boat harbors; provided that]~~

3 (c) The total number of valid commercial use permits that
4 may be issued for vessels assigned mooring in Ala Wai boat
5 harbor shall not exceed fifteen per cent of the total berths and
6 shall not exceed thirty-five per cent of the total berths at the
7 Keehi boat harbor; provided that at the Ala Wai boat harbor,
8 vessels issued commercial use permits shall:

9 (1) Not exceed sixty-five feet in length;

10 (2) Occupy not more than fifty-six berths located along
11 the row of berths furthestmost mauka or adjacent to
12 Holomua street, with the remainder located throughout
13 the Ala Wai boat harbor, with a priority assigned to
14 row seven hundred and row eight hundred;

15 (3) Be phased-in in a manner that does not displace any
16 existing recreational boater or existing catamaran
17 operator; and

18 (4) Include commercial catamarans, for which valid
19 commercial use permits or existing registration
20 certificates have been issued by the department
21 [which] that allow the catamarans to operate upon
22 Waikiki shore waters for hire[, may be permitted to

1 ~~moor in Ala Wai boat harbor at facilities leased for~~
2 ~~commercial purposes].~~

3 The department shall allow a sole proprietor of a catamaran
4 operating with a valid commercial use permit or existing
5 registration certificate, issued by the department, for a
6 commercial catamaran to land its commercial catamaran on Waikiki
7 beach and to operate upon Waikiki shore waters for hire, to
8 transfer the ownership of the vessel from personal ownership to
9 corporate or other business ownership without terminating the
10 right to operate under the commercial use permit or existing
11 registration certificate. The existing commercial use permit or
12 existing registration certificate shall be reissued in a timely
13 manner in the name of the transferee corporation or other
14 business entity. No valid commercial use permit or existing
15 registration certificate issued to an owner of a commercial
16 catamaran operating in the Waikiki area shall be denied or
17 revoked without a prior hearing held in accordance with chapter
18 91.

19 [~~e~~] (d) Notwithstanding any limitations on commercial
20 permits for Maui county small boat facilities, vessels engaging
21 in inter-island ferry service within Maui county shall be
22 afforded preferential consideration for ferry landings,

1 including the issuance of a commercial operating permit and the
2 waiver of any applicable fees, at Maui county small boat
3 facilities; provided that:

4 (1) The vessel operator has been issued a certificate of
5 public convenience and necessity for the purpose of
6 engaging in inter-island ferry service that includes a
7 route within Maui county;

8 (2) The design and performance characteristics of the
9 vessel will permit safe navigation within the harbor
10 entrance channel and safe docking within Maui county
11 small boat facilities;

12 (3) The vessel operations will not result in unreasonable
13 interference with the use of Maui county small boat
14 facilities by other vessels; and

15 (4) All preferential consideration and waivers, including
16 any commercial permits issued under this section,
17 shall cease upon the vessel operator's termination of
18 inter-island ferry service within Maui county.

19 [~~d~~] (e) The chairperson may adopt rules pursuant to
20 chapter 91 to further implement this section."

21 SECTION 5. Section 200-10, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:

1 "(c) The permittee shall pay moorage fees to the
2 department for the use permit that shall be based on[7] but not
3 limited to[7] the use of the vessel, its effect on the harbor,
4 use of facilities, and the cost of administering this mooring
5 program; and, furthermore:

6 (1) ~~[Moorage]~~ Except for commercial maritime activities
7 where there is a tariff established by the department
8 of transportation, moorage fees shall be established
9 by appraisal by a state-licensed appraiser approved by
10 the department and shall be higher for
11 nonresidents[7]. The mooring fees shall be set by
12 appraisal categories schedule A and schedule B, to be
13 determined by the department, and may be increased
14 annually by the department, to reflect a cost-of-
15 living index increase; provided that:

16 (A) Schedule A shall include existing mooring
17 permittees; provided further that schedule A
18 rates shall be increased by the same amount each
19 year so schedule A rates will equal schedule B
20 rates by July 1, 2014; and

- 1 (B) Schedule B shall apply to all new mooring
2 applicants and transient slips on or after
3 July 1, 2009;
- 4 (2) For commercial maritime activities where there is a
5 tariff established by the department of
6 transportation, harbors division, the department may
7 adopt the published tariff of the department of
8 transportation, harbors division, or establish the fee
9 by appraisal by a state licensed appraiser approved by
10 the department;
- 11 ~~(2)~~ (3) An application fee shall be collected when
12 applying for moorage in state small boat harbors and
13 shall thereafter be collected annually when the
14 application is renewed. The application fee shall be:
- 15 (A) Set by the department; and
- 16 (B) Not less than \$100 for nonresidents;
- 17 ~~(3)~~ (4) If a recreational vessel is used as a place of
18 principal habitation, the permittee shall pay, in
19 addition to the moorage fee, a liveaboard fee that
20 shall be calculated at a rate of:
- 21 (A) \$5.20 a foot of vessel length a month if the
22 permittee is a state resident; and

1 (B) \$7.80 a foot of vessel length a month if the
2 permittee is a nonresident;
3 provided that the liveaboard fees established by this
4 paragraph may be increased by the department at the
5 rate of the annual cost-of-living index, but not more
6 than five per cent in any one year, beginning
7 [~~January~~] July 1 of each year; [~~and~~]
8 [~~(4)~~] (5) If a vessel is used for commercial purposes from
9 its permitted mooring, the permittee shall pay, in
10 lieu of the moorage and liveaboard fee, a fee based on
11 three per cent of the gross revenues derived from the
12 use of the vessel or two times the moorage fee
13 assessed for a recreational vessel of the same size,
14 whichever is greater~~[-]~~; and
15 (6) In addition, the department is authorized to assess
16 and collect utility fees, including electrical and
17 water charges, and common area maintenance fees in
18 small boat harbors."

19 SECTION 6. (a) Pursuant to section 200-2.5, Hawaii
20 Revised Statutes, the department of land and natural resources
21 is directed to lease certain fast lands at the Ala Wai harbor
22 using the request for proposals process for the public-private

1 development, management, and operation of areas of Ala Wai
2 harbor.

3 (b) The permissible uses under this lease shall include:

4 (1) A minimum of not less than one hundred twenty berths
5 for vessels; provided that:

6 (A) Not more than forty berths shall be available for
7 vessels used for purposes of recreational boating
8 activities that are also the principal habitation
9 of the owners;

10 (B) Not more than thirty berths, including those
11 allowed pursuant to section 200-9(c), Hawaii
12 Revised Statutes, shall be available for vessels
13 issued commercial use permits; and

14 (C) All berths provided under this paragraph shall be
15 made available to the public pursuant to
16 department of land and natural resources rules,
17 with moorage fees to be determined by the
18 developer;

19 (2) Office space, including a minimum of square
20 feet for division of boating and ocean recreation use;

- 1 (3) Vehicular parking, including a minimum of
2 parking stalls for division of boating and ocean
3 recreation use and for public metered parking;
- 4 (4) Commercial uses, including but not limited to
5 restaurants, retail shops, marine supplies shops, and
6 sundry stores, all made available to the public;
- 7 (5) Residential uses;
- 8 (6) Vessel fueling facilities;
- 9 (7) Vessel haul-out and repair facilities; and
- 10 (8) Vessel haul-out and storage facilities.
- 11 (c) The lease shall not exceed a maximum term of
12 sixty-five years and shall provide for:
- 13 (1) A minimum lease rent that is the greater of a
14 commercially acceptable percentage of the gross
15 receipts of the lessee from the developed leased
16 premises or a fair return on the fair market value of
17 the vacant leased premises, as determined by appraisal
18 by a state-licensed appraiser approved by the
19 department, with reasonable periodic step-ups in the
20 minimum lease rent over the term of the lease; and
- 21 (2) A three-year development period with a fixed reduced
22 lease rent.

1 (d) Chapter 171 and section 190D-33, Hawaii Revised
2 Statutes, notwithstanding, all revenues from the lease shall be
3 deposited in the boating special fund.

4 SECTION 7. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 2046.

Report Title:

Small Boat Harbors; Commercial Vessels; Development

Description:

Permits commercial permits in Ala Wai and Keehi small boat harbors; limits small boat harbor fees to be used only in the small boat harbor where the fees were collected; directs the department of land and natural resources to provide a request for proposal for a public-private partnership to develop a portion of Ala Wai small boat harbor; permits commercial use permits to be issued for vessels assigned moorings in Ala Wai and Keehi small boat harbors; and provides for future mooring fees to be established by appraisal. Effective 7/1/46. (SD3)