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

12 One of these facilities, the Ala Wai harbor has been the
13 recipient of some recent badly needed repair and replacement of
14 floating docks; however, the need for further maintenance
15 remains unfulfilled. In spite of its needs, the Ala Wai harbor
16 includes certain assets within its facilities that are under-
17 utilized and if properly developed can potentially generate
18 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 further decline in the valuable assets that the State's small
6 boat harbors possess would be a huge loss that the State cannot
7 allow.

8 The purpose of this Act is to:

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



1 SECTION 2. Section 200-2.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+] §200-2.5 [+] Disposition of state boating facility
4 properties. (a) Notwithstanding any law to the contrary, the
5 board may lease fast lands and submerged lands within an
6 existing state boating facility by public auction, a request for
7 proposals, or by direct negotiation pursuant to section 171-
8 59[-] and chapter 190D, for private development, management, and
9 operation. For the purpose of this section, the term "state
10 boating facility" means a state small boat harbor, launching
11 ramp, offshore mooring, pier, wharf, landing, or any other area
12 under the jurisdiction of the department pursuant to this
13 chapter.

14 (b) The permissible uses under any lease disposed of under
15 this section shall be consistent with the purpose for which the
16 land was set aside by the governor pursuant to section 171-11.
17 Permissible uses may include any use that will complement or
18 support the ocean recreation or maritime activities of state
19 boating facilities.

20 (c) Disposition of public lands of state boating
21 facilities constructed, maintained, and operated in accordance



1 with this chapter shall not exceed a maximum term of [~~fifty-~~
2 ~~five~~] sixty-five years.

3 (d) All revenues due to the State derived from leases of
4 state boating facilities shall be deposited in the boating
5 special fund."

6 SECTION 3. Section 200-9, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§200-9 Purpose and use of state small boat harbors.** (a)

9 State small boat harbors are constructed, maintained, and
10 operated for the purposes of:

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

14 For the purpose of this section, "recreational boating
15 activities" means the [~~utilization~~] use of watercraft for
16 sports, hobbies, or pleasure, and "commercial vessel activities"
17 means the [~~utilization~~] use of vessels for activities or
18 services provided on a fee basis. To implement these purposes,
19 only vessels in good material and operating condition that are
20 regularly navigated beyond the confines of the small boat
21 harbor[~~7~~] and [~~which~~] that are used for recreational activities,
22 the landing of fish, or commercial vessel activities shall be



1 permitted to moor, anchor, or berth at ~~[such]~~ a state small boat
2 harbor or use any of its facilities.

3 (b) Vessels used for purposes of recreational boating
4 activities ~~[which]~~ that are also the principal habitation of the
5 owners shall occupy no more than one hundred twenty-nine berths
6 at Ala Wai boat harbor and thirty-five berths at Keehi boat
7 harbor, which is equal to fifteen per cent of the respective
8 total moorage space that was available as of July 1, 1976, at
9 the Ala Wai and Keehi boat harbors. ~~[Notwithstanding the~~
10 ~~purposes of small boat harbors, moorage for commercial vessels~~
11 ~~and commercial vessel activities is not permitted in the Ala Wai~~
12 ~~and Keehi boat harbors, provided that]~~

13 (c) The total number of valid commercial use permits that
14 may be issued for vessels assigned mooring in Ala Wai boat
15 harbor shall not exceed fifteen per cent of the total berths and
16 shall not exceed thirty-five per cent of the total berths at the
17 Keehi boat harbor; provided that at the Ala Wai boat harbor,
18 vessels issued commercial use permits shall:

- 19 (1) Not exceed sixty-five feet in length;
- 20 (2) Occupy not more than fifty-six berths along the row of
21 berths furtherest mauka or adjacent to Holomua street,



1 with the remainder in row seven hundred and row eight
2 hundred; and

3 (3) Include commercial catamarans, for which valid permits
4 or registration certificates have been issued by the
5 department [~~which~~] that allow the catamarans to
6 operate upon Waikiki shore waters for hire [~~, may be~~
7 ~~permitted to moor in Ala Wai boat harbor at facilities~~
8 ~~leased for commercial purposes~~].

9 The department shall allow a sole proprietor of a catamaran
10 operating with a valid commercial registration certificate or
11 use permit, issued by the department, for a commercial catamaran
12 to land its commercial catamaran on Waikiki beach and to operate
13 upon Waikiki shore waters for hire, to transfer the ownership of
14 the vessel from personal ownership to corporate or other
15 business ownership without terminating the right to operate
16 under the commercial registration certificate [~~-~~] or use permit.
17 The existing commercial registration certificate or use permit
18 shall be reissued in a timely manner in the name of the
19 transferee corporation or other business entity. No commercial
20 registration certificate or use permit issued to an owner of a
21 commercial catamaran operating in the Waikiki area shall be



1 denied or revoked without a prior hearing held in accordance
2 with chapter 91.

3 ~~[(e)]~~ (d) Notwithstanding any limitations on commercial
4 permits for Maui county small boat facilities, vessels engaging
5 in inter-island ferry service within Maui county shall be
6 afforded preferential consideration for ferry landings,
7 including the issuance of a commercial operating permit and the
8 waiver of any applicable fees, at Maui county small boat
9 facilities; provided that:

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

14 (2) The design and performance characteristics of the
15 vessel will permit safe navigation within the harbor
16 entrance channel and safe docking within Maui county
17 small boat facilities;

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

21 (4) All preferential consideration and waivers, including
22 any commercial permits issued under this section,



1 shall cease upon the vessel operator's termination of
2 inter-island ferry service within Maui county.

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

5 SECTION 4. Section 200-10, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) The permittee shall pay moorage fees to the
8 department for the use permit that shall be based on~~[_]~~ but not
9 limited to~~[_]~~ the use of the vessel, its effect on the harbor,
10 use of facilities, and the cost of administering this mooring
11 program; and, furthermore:

12 (1) ~~[Moorage]~~ Except for commercial maritime activities
13 where there is a tariff established by the department
14 of transportation, moorage fees shall be established
15 by appraisal by a state licensed appraiser approved by
16 the department and shall be higher for
17 nonresidents~~[_]~~. The mooring fees shall be set by
18 appraisal categories schedule A and schedule B, to be
19 determined by the department, and shall increase
20 accordingly, annually, to any cost-of-living index
21 increase; provided that:



- 1 (A) Schedule A shall include existing mooring holders
2 with an annual increase toward schedule B rates
3 spread out evenly over a five-year period; and
- 4 (B) Schedule B shall apply to all new mooring
5 applicants and transient slips on or after
6 July 1, 2009;
- 7 (2) For commercial maritime activities where there is a
8 tariff established by the department of
9 transportation, harbors division, the department may
10 adopt the published tariff of the department of
11 transportation, harbors division, or establish the fee
12 by appraisal by a state licensed appraiser approved by
13 the department;
- 14 ~~[(2)]~~ (3) An application fee shall be collected when
15 applying for moorage in state small boat harbors and
16 shall thereafter be collected annually when the
17 application is renewed. The application fee shall be:
- 18 (A) Set by the department; and
19 (B) Not less than \$100 for nonresidents;
- 20 ~~[(3)]~~ (4) If a recreational vessel is used as a place of
21 principal habitation, the permittee shall pay, in



1 addition to the moorage fee, a liveaboard fee that
2 shall be calculated at a rate of:

3 (A) \$5.20 a foot of vessel length a month if the
4 permittee is a state resident; and

5 (B) \$7.80 a foot of vessel length a month if the
6 permittee is a nonresident;

7 provided that the liveaboard fees established by this
8 paragraph may be increased by the department at the
9 rate of the annual cost-of-living index, but not more
10 than five per cent in any one year, beginning
11 [~~January~~] July 1 of each year; [~~and~~]

12 [~~(4)~~] (5) If a vessel is used for commercial purposes from
13 its permitted mooring, the permittee shall pay, in
14 lieu of the moorage and liveaboard fee, a fee based on
15 three per cent of the gross revenues derived from the
16 use of the vessel or two times the moorage fee
17 assessed for a recreational vessel of the same size,
18 whichever is greater~~[-]~~; and

19 (6) In addition, the department is authorized to assess
20 and collect utility fees, including but not limited to
21 electrical and water charges, and common area
22 maintenance fees in small boat harbors."



1 SECTION 5. (a) Pursuant to section 200-2.5, Hawaii
2 Revised Statutes, the department of land and natural resources
3 is directed to lease certain fast lands and submerged lands at
4 the Ala Wai harbor using the request for proposals process for
5 the public-private development, management, and operation of
6 areas of Ala Wai harbor designated in subsection (b).

7 (b) The areas to be leased shall include but not be
8 limited to:

- 9 (1) Row seven hundred and row eight hundred at the makai
10 or ocean side of the Ala Wai harbor and adjoining the
11 breakwater;
- 12 (2) The area immediately mauka or landward of row seven
13 hundred, presently used for metered vehicular parking;
- 14 (3) The submerged lands between row seven hundred and row
15 eight hundred;
- 16 (4) A portion of tax map key: _____, comprising of
17 approximately _____ square feet, presently used for
18 harbor offices and permitted vehicular parking;
- 19 (5) Tax map key: (1) 2-3-37:20, comprising of 15,199
20 square feet more or less, and is the site of the
21 existing fuel dock facility; and



1 (6) Tax map key: (1) 2-6-10:05 and 16, comprising of
2 38,369 square feet, more or less, and is the site of
3 the existing haul-out and repair facility.

4 (c) The permissible uses under this lease shall include
5 but not be limited to the following:

6 (1) A minimum of not less than _____ berths for vessels;
7 provided that:

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

12 (B) Not more than _____ berths, including those
13 allowed pursuant to section 200-9(c), shall be
14 available for vessels issued commercial use
15 permits; and

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

21 (2) Office space, including a minimum of _____ square
22 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 (d) The lease shall not exceed a maximum term of sixty-
- 12 five years and shall provide for:
- 13 (1) A minimum lease rent that is the greater of a
- 14 commercially acceptable per cent of the gross receipts
- 15 of the lessee from the developed leased premises or a
- 16 fair return on the fair market value of the vacant
- 17 leased premises, as determined by appraisal by a state
- 18 licensed appraiser approved by the department, with
- 19 reasonable periodic step-ups in the minimum lease rent
- 20 over the term of the lease; and
- 21 (2) A three-year development period with a fixed reduced
- 22 lease rent.



1 (e) 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 (f) Chapters 171 and 190D, Hawaii Revised Statutes,
5 notwithstanding, the lease for the fast lands and submerged
6 lands set forth in this Act shall be pursuant to section
7 200-2.5, Hawaii Revised Statutes. Further, section 171-53,
8 Hawaii Revised Statutes, notwithstanding, the prior
9 authorization of the legislature by concurrent resolution for
10 the lease of submerged lands shall not be required.

11 SECTION 6. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Ala Wai Boat Harbor; Commercial Vessels

Description:

Permits BLNR to lease submerged lands, in accordance with chapter 190D, HRS (ocean and submerged lands, leasing), by public auction, request for proposals, or negotiation, in a state boating facility. Permits commercial use permits to be issued for vessels assigned moorings in Ala Wai and Keehi harbors. Directs DLNR to provide for RFP for a public-private partnership to develop portions of Ala Wai small boat harbor for recreational and commercial vessels moorings, vehicular parking, offices, commercial, residential, vessel fueling facilities, and vessel haul-out and repair uses. (HD1)

