

JAN 28 2009

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# A BILL FOR AN ACT

RELATING TO STATE SMALL BOAT HARBORS.

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

1           SECTION 1. Section 200-10, Hawaii Revised Statutes, is  
2 amended by amending subsection (d) to read as follows:  
3           "(d) The department shall not renew or issue a permit to a  
4 person who is not the owner of the vessel which is moored or  
5 which the person desires to moor in a state small boat harbor.  
6 Any individual who is an owner of a vessel used for commercial  
7 purposes, including commercial fishing as a principal means of  
8 livelihood, and possesses a valid mooring permit or commercial  
9 permit, or both, in accordance with the rules adopted by the  
10 chairperson pursuant to chapter 91, may transfer ownership of  
11 the vessel from personal ownership to corporate or other  
12 business ownership without terminating the right to moor or  
13 operate the vessel under the permit or permits. The existing  
14 permit or permits shall be reissued in the name of the  
15 transferee corporation or other business entity.  
16           For the purposes of this section, "person" means any  
17 individual, firm, partnership, corporation, trust, association,



1 joint venture, organization, institution, or any other legal  
2 entity, and "owner" includes the legal owner of a vessel where  
3 there is no security interest held by anyone on the vessel, a  
4 buyer under a purchase money security interest, a debtor under  
5 any security interest, a demise charterer of a vessel, or a  
6 lessee or charterer of a vessel under a lease or charter which  
7 provides the lessee or charterer with exclusive right to  
8 possession of the vessel to the exclusion of the lessor or the  
9 person from whom the vessel is chartered. No permittee shall be  
10 allowed to moor a leased vessel in a berth unless the terms of  
11 the lease are set at fair market value. A "legal owner"  
12 includes a person who holds unencumbered title to a vessel or is  
13 a secured party under a security interest in the vessel. An  
14 owner who is issued a permit to moor a vessel in a state small  
15 boat harbor shall notify the department in writing of a transfer  
16 of interest or possession in the vessel within seven days of  
17 transfer.

18 Any person owning an interest in a corporation or other  
19 business entity [~~possessing~~] that possesses a valid commercial  
20 permit issued by the department, in accordance with rules  
21 adopted by the chairperson pursuant to chapter 91, or is engaged  
22 in the business of commercial fishing as its primary business



1 activity, may transfer any or all stock or other interest to  
2 another person without terminating the right of the corporation  
3 or business entity to retain or renew its commercial permit or  
4 any other permit issued to it by the department; provided that:

5 (1) The corporation or business entity has been engaged in  
6 the same commercial vessel activity, as defined in  
7 section 200-9, for a minimum of one year~~[+]~~, or has  
8 been engaging in the business of commercial fishing  
9 for a minimum of one year; and

10 (2) The seller shall pay the department a business  
11 transfer fee based on the passenger-carrying capacity  
12 of the vessels owned or operated by the corporation or  
13 business entity as provided by rules adopted by the  
14 chairperson pursuant to chapter 91. The seller of an  
15 interest in a corporation or other business entity  
16 that does not possess a valid commercial permit, but  
17 is engaged in the business of commercial fishing shall  
18 not be required to pay a transfer fee.

19 Any person possessing a commercial permit shall be required to  
20 meet minimum revenue standards, as a condition of retaining or  
21 renewing the commercial permit."



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

3 SECTION 3. This Act shall take effect on July 1, 2009.

4 INTRODUCED BY: Russell Kohl B/R



**Report Title:**

State Small Boat Harbors; Transfer Fees

**Description:**

Clarifies that commercial fishing operations can transfer ownership without losing necessary permits and without a transfer fee being imposed.

