

JAN 27 2010

A BILL FOR AN ACT

RELATING TO 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 to read as follows:

3 "§200-10 Permits and fees for state small boat harbors.

4 (a) No person shall moor a vessel in a state small boat harbor
5 without:

6 (1) First obtaining a use permit from the department; and

7 (2) Being the owner of the vessel.

8 (b) In order to obtain a permit or a permit renewal, the
9 owner of a vessel shall provide, at the owner's own expense:

10 (1) A marine surveyor's inspection no more than two years
11 old, certifying that the surveyor has inspected the
12 vessel and considers it to fulfill the requirements
13 set by the department; and

14 (2) Documentation that the person is the owner of the
15 vessel. The documentation shall meet requirements
16 established by the department.

17 (c) The permittee shall pay moorage fees to the department
18 for the use permit that shall be based on, but not limited to,



1 the use of the vessel, its effect on the harbor, use of
2 facilities, and the cost of administering this mooring program;
3 and, furthermore:

4 (1) Moorage fees shall be established by the department
5 and shall be higher for nonresidents;

6 (2) An application fee shall be collected when applying
7 for moorage in state small boat harbors and shall
8 thereafter be collected annually when the application
9 is renewed. The application fee shall be:

10 (A) Set by the department; and

11 (B) Not less than \$100 for nonresidents;

12 (3) If a recreational vessel is used as a place of
13 principal habitation, the permittee shall pay, in
14 addition to the moorage fee, a liveaboard fee that
15 shall be calculated at a rate of:

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

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

20 provided that the liveaboard fees established by this
21 paragraph may be increased by the department at the
22 rate of the annual cost-of-living index, but not more



1 than five per cent in any one year, beginning
2 January 1 of each year; [and]

3 (4) If a vessel having a commercial permit is used for
4 commercial purposes from its permitted mooring, the
5 permittee shall pay, in lieu of the moorage and
6 liveaboard fee, a fee based on three per cent of the
7 gross revenues derived from the use of the vessel or
8 two times the moorage fee assessed for a recreational
9 vessel of the same size, whichever is greater[-]; and

10 (5) If a vessel is used for commercial fishing activity
11 from its permitted mooring, the permittee shall pay,
12 in lieu of the moorage and liveaboard fee, a fee that
13 is one and one-half times the moorage fee assessed for
14 a recreational vessel of the same size.

15 (d) The department shall not renew or issue a permit to a
16 person who is not the owner of the vessel which is moored or
17 which the person desires to moor in a state small boat harbor.
18 Any individual who is an owner of a vessel used for commercial
19 purposes, including commercial fishing as a principal means of
20 livelihood, and possesses a valid mooring permit or commercial
21 permit, or both, in accordance with the rules adopted by the
22 chairperson pursuant to chapter 91, may transfer ownership of



1 the vessel from personal ownership to corporate or other
2 business ownership without terminating the right to moor or
3 operate the vessel under the permit or permits. The existing
4 permit or permits shall be reissued in the name of the
5 transferee corporation or other business entity.

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



1 of interest or possession in the vessel within seven days of
2 transfer.

3 Any person owning an interest in a corporation or other
4 business entity possessing a valid commercial permit issued by
5 the department, in accordance with rules adopted by the
6 chairperson pursuant to chapter 91, may transfer any or all
7 stock or other interest to another person without terminating
8 the right of the corporation or business entity to retain or
9 renew its commercial permit or any other permit issued to it by
10 the department; provided that:

- 11 (1) The corporation or business entity has been engaged in
12 the same commercial vessel activity, as defined in
13 section 200-9, for a minimum of one year; and
- 14 (2) The seller shall pay the department a business
15 transfer fee based on the passenger-carrying capacity
16 of the vessels owned or operated by the corporation or
17 business entity as provided by rules adopted by the
18 chairperson pursuant to chapter 91.

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 (e) Any person owning an interest in a corporation or
2 other business entity operating a commercial fishing vessel may
3 transfer any or all stock or other interest to another person
4 without terminating the right of the corporation or business
5 entity to retain or renew its mooring permit or any other permit
6 issued to it by the department; provided that:

7 (1) The corporation or business entity has been engaged in
8 the same commercial fishing activity for a minimum of
9 three years or for a minimum of one year if the
10 mooring permit was acquired by a previous transfer;

11 (2) The owner of a vessel used for commercial fishing has
12 declared this activity with the department and has
13 paid commercial fishing vessel mooring fees; and

14 (3) The seller pays the department a business transfer fee
15 of \$2,500, or a higher fee as provided by rules
16 adopted by the chairperson pursuant to chapter 91.

17 (f) For purposes of this section, "commercial fishing
18 activity" means a vessel used for commercial fishing:

19 (1) Whose owner possesses:
20 (A) Valid commercial fishing registration documents;
21 (B) Other business licenses and permit required by
22 law with respect to the vessel;



1 (C) Income tax returns that verify that over one-half
2 of the business involving the vessel is derived
3 from the sale of fishing products;

4 (2) That is operated by an individual holding a valid
5 commercial marine license; and

6 (3) Whose owner can prove that at least \$5,000 in income
7 has been earned with respect to the vessel in the most
8 recent taxable year applicable to a permit
9 application.

10 ~~(e)~~ (g) The department may designate moorage space
11 within state small boat harbors to accommodate commercial
12 fishing vessels and transient vessels.

13 ~~(f)~~ (h) All revenues from the foregoing operations shall
14 be deposited in the boating special fund."

15 SECTION 2. New statutory material is underscored.

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

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Report Title:

Small Boats; Commercial Permit; Mooring Permit

Description:

Requires the DLNR to issue a commercial permit to the owner of a commercial vessel with a mooring permit under certain conditions.

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