
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 boat harbor, has been
12 the recent recipient of badly needed repair and replacement of
13 floating docks. However, the need for further maintenance
14 remains unfulfilled. The Ala Wai boat harbor includes certain
15 assets within its facilities that are underused and, if properly
16 developed, may potentially generate revenues that may not only
17 benefit its continued improvement and maintenance but also



1 benefit the rest of the facilities now operated by the division
2 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 to let the value of Hawaii's small boat
6 harbors continue to decline.

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 boat 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 boat harbor facilities that are
20 presently underused to maximize their revenue
21 potential.



1 SECTION 2. Section 46-80.5, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Exemptions.

4 (1) Property owned by the state or county governments or
5 entities, may be exempt from the assessment except as
6 provided in paragraph (3);

7 (2) Property owned by the federal government or entities,
8 shall be exempt from the assessment except as provided
9 in paragraph (3);

10 (3) If a public body owning property, including property
11 held in trust for any beneficiary, ~~[which]~~ that is
12 exempt from an assessment pursuant to paragraphs (1)
13 and (2), grants a leasehold or other possessory
14 interest in the property to a nonexempt person or
15 entity, the assessment, notwithstanding paragraphs (1)
16 and (2), shall be levied on the leasehold or
17 possessory interest and shall be payable by the
18 lessee; ~~[and]~~

19 (4) The Ala Wai boat harbor shall be exempt from the
20 assessment and any special improvement district
21 requirements regarding redevelopment authorized by
22 subsection (a); and



1 ~~[(4)]~~ (5) No other properties or owners shall be exempt
2 from the assessment unless the properties or owners
3 are expressly exempted in the ordinance establishing a
4 district adopted pursuant to this section or amending
5 the rate or method of assessment of an existing
6 district."

7 SECTION 3. Section 200-2.5, Hawaii Revised Statutes, is
8 amended by amending subsections (b) and (c) to read as follows:

9 "(b) The permissible uses under any lease disposed of
10 under this section shall be consistent with the purpose for
11 which the land was set aside by the governor pursuant to section
12 171-11. Permissible uses may include any use that will
13 complement or support the ocean-recreation or maritime
14 activities of state boating facilities.

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

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



1 "§200-9 Purpose and use of state small boat harbors. (a)

2 State small boat harbors are constructed, maintained, and
3 operated for the purposes of:

4 (1) Recreational boating activities;

5 (2) Landing of fish; and

6 (3) Commercial vessel activities.

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

18 (b) Vessels used for purposes of recreational boating
19 activities [~~which~~] that are also the principal habitation of the
20 owners shall occupy no more than one hundred twenty-nine berths
21 at Ala Wai boat harbor and thirty-five berths at Keehi boat
22 harbor, which is equal to fifteen per cent of the respective



1 total moorage space that was available as of July 1, 1976, at
2 the Ala Wai and Keehi boat harbors. [~~Notwithstanding the~~
3 ~~purposes of small boat harbors, moorage for commercial vessels~~
4 ~~and commercial vessel activities is not permitted in the Ala Wai~~
5 ~~and Keehi boat harbors, provided that]~~

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

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

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

18 (3) Be phased-in in a manner that does not displace any
19 existing recreational boater or existing catamaran
20 operator; and

21 (4) Include commercial catamarans, for which valid
22 commercial use permits or existing registration



1 certificates have been issued by the department
2 ~~[which]~~ that allow the catamarans to operate upon
3 Waikiki shore waters for hire~~[, may be permitted to~~
4 ~~moor in Ala Wai boat harbor at facilities leased for~~
5 ~~commercial purposes]~~.

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



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

- 8 (1) The vessel operator has been issued a certificate of
9 public convenience and necessity for the purpose of
10 engaging in [~~inter-island~~] ferry service that includes
11 a route within Maui county;
- 12 (2) The design and performance characteristics of the
13 vessel will permit safe navigation within the harbor
14 entrance channel and safe docking within Maui county
15 small boat facilities;
- 16 (3) The vessel operations will not result in unreasonable
17 interference with the use of Maui county small boat
18 facilities by other vessels; and
- 19 (4) All preferential consideration and waivers, including
20 any commercial permits issued under this section,
21 shall cease upon the vessel operator's termination of
22 [~~inter-island~~] ferry service within Maui county.



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

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

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

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

20 (A) Schedule A shall include existing mooring
21 permittees;



1 (B) Schedule B shall apply to all new mooring
2 applicants and transient slips on or after
3 July 1, 2011; and

4 (C) Schedule A rates shall be increased by the same
5 amount each year so that schedule A rates equal
6 schedule B rates by July 1, 2014;

7 (2) For commercial maritime activities where there is a
8 tariff established by the harbors division of the
9 department of transportation the department may adopt
10 the published tariff of the harbors division of the
11 department of transportation or establish the fee by
12 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) The department is authorized to assess and collect
20 utility fees, including electrical and water charges,
21 and common-area maintenance fees in small boat
22 harbors."



1 SECTION 6. (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 at the Ala Wai boat
 4 harbor using the request for proposals process for the public-
 5 private development, management, and operation of areas of Ala
 6 Wai boat harbor.

7 (b) The permissible uses under a lease issued pursuant to
 8 subsection (a) shall include:

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

11 (A) Not more than forty berths shall be available for
 12 vessels used for purposes of recreational boating
 13 activities that are also the principal habitation
 14 of the owners;

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

19 (C) All berths provided under this paragraph shall be
 20 made available to the public pursuant to
 21 department of land and natural resources rules,



- 1 with moorage fees to be determined by the
2 developer;
- 3 (2) Office space for division of boating and ocean
4 recreation use;
- 5 (3) Vehicular parking for division of boating and ocean
6 recreation use and for public metered parking;
- 7 (4) Commercial uses, including but not limited to
8 restaurants, retail shops, marine-supplies shops, and
9 sundry stores, all made available to the public;
- 10 (5) Hotel, residential, and timeshare uses;
- 11 (6) Vessel fueling facilities;
- 12 (7) Vessel haul-out, storage, and repair facilities; and
- 13 (8) Deep sea water air-conditioning plants.
- 14 (c) A lease executed pursuant to subsection (a) shall not
15 exceed a maximum term of sixty-five years and shall provide for:
- 16 (1) A minimum lease rent that is the greater of a
17 commercially acceptable percentage of the gross
18 receipts of the lessee from the developed leased
19 premises or a fair return on the fair market value of
20 the vacant leased premises, as determined by appraisal
21 by a state-licensed appraiser approved by the



1 department, with reasonable periodic step-ups in the
2 minimum lease rent over the term of the lease; and

3 (2) A three-year development period with a fixed reduced
4 lease rent.

5 (d) Chapter 171 and section 190D-33, Hawaii Revised
6 Statutes, notwithstanding, all revenues from a lease executed
7 pursuant to subsection (a) shall be deposited into the boating
8 special fund.

9 SECTION 7. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 8. This Act shall take effect on July 1, 2030.



Report Title:

Small Boat Harbors; Commercial Vessels; Development

Description:

Permits commercial permits in Ala Wai and Keehi small boat harbors. Authorizes a process for a public-private partnership to develop a portion of Ala Wai Boat Harbor. Specifies process for establishing moorage fees. Effective July 1, 2030. (SB1549 HD1)

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