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## 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 there is no grace  
2 period or process by which a penalty may be paid to cure the  
3 failure to renew and reinstate a mooring permit. Given the  
4 waiting list at some harbors, the unintentional loss of a  
5 mooring permit may result in a long-term wait to regain a  
6 permit.

7           The legislature further finds that there should be  
8 certified notice and a grace period given if a permit is  
9 inadvertently not renewed by the expiration date. The purpose  
10 of this Act is to provide a process by which permits can be  
11 reinstated if all penalties, applicable fees, and charges are  
12 paid in full.

13           SECTION 2. Section 200-10, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "**§200-10 Permits and fees for state small boat harbors.**

16 (a) No person shall moor a vessel in a state small boat harbor  
17 without:

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



1 (2) Being the owner of the vessel.

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

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

8 (2) Documentation that the person is the owner of the  
9 vessel. The documentation shall meet requirements  
10 established by the department.

11 (c) The permittee shall pay moorage fees to the department  
12 for the use permit that shall be based on, but not limited to,  
13 the use of the vessel, its effect on the harbor, use of  
14 facilities, and the cost of administering this mooring program;  
15 and, furthermore:

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

18 (2) An application fee shall be collected when applying  
19 for moorage in state small boat harbors and shall  
20 thereafter be collected annually when the application  
21 is renewed. The application fee shall be:

22 (A) Set by the department; and



- 1 (B) Not less than \$100 for nonresidents;
- 2 (3) If a recreational vessel is used as a place of  
3 principal habitation, the permittee shall pay, in  
4 addition to the moorage fee, a liveaboard fee that  
5 shall be calculated at a rate of:
- 6 (A) \$5.20 a foot of vessel length a month if the  
7 permittee is a state resident; and
- 8 (B) \$7.80 a foot of vessel length a month if the  
9 permittee is a nonresident;
- 10 provided that the liveaboard fees established by this  
11 paragraph may be increased by the department at the  
12 rate of the annual cost-of-living index, but not more  
13 than five per cent in any one year, beginning  
14 January 1 of each year; and
- 15 (4) If a vessel is used for commercial purposes from its  
16 permitted mooring, the permittee shall pay, in lieu of  
17 the moorage and liveaboard fee, a fee based on three  
18 per cent of the gross revenues derived from the use of  
19 the vessel or two times the moorage fee assessed for a  
20 recreational vessel of the same size, whichever is  
21 greater.



1        (d) Upon failure to renew a regular mooring permit on or  
2 before the date on which it expires, the department shall notify  
3 the permittee of the expiration within five days of the date of  
4 expiration, by certified mail, return receipt requested, at the  
5 person's last known address or by personal service. The notice  
6 shall also include any other permits that are expired or will  
7 expire within the thirty days following the expiration date of  
8 the regular mooring permit and the requirements, penalties, and  
9 deadlines for reinstating each expired permit.

10       (e) The holder of an expired mooring use permit may have  
11 the permit restored within thirty days; provided that the holder  
12 pays a one-time penalty fee, as provided by the department, as  
13 well as all other applicable fees and charges owed at that time.

14       (f) The holder of an expired non-mooring use permit may  
15 have the permit restored; provided that the holder pays the  
16 applicable renewal fee plus any penalty fees owed at that time,  
17 as provided by the department.

18       ~~(d)~~ (g) The department shall not renew or issue a permit  
19 to a person who is not the owner of the vessel which is moored  
20 or which the person desires to moor in a state small boat  
21 harbor. Any individual who is an owner of a vessel used for  
22 commercial purposes, including commercial fishing as a principal



1 means of livelihood, and possesses a valid mooring permit or  
2 commercial permit, or both, in accordance with the rules adopted  
3 by the chairperson pursuant to chapter 91, may transfer  
4 ownership of the vessel from personal ownership to corporate or  
5 other business ownership without terminating the right to moor  
6 or operate the vessel under the permit or permits. The existing  
7 permit or permits shall be reissued in the name of the  
8 transferee corporation or other business entity.

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



1 a secured party under a security interest in the vessel. An  
2 owner who is issued a permit to moor a vessel in a state small  
3 boat harbor shall notify the department in writing of a transfer  
4 of interest or possession in the vessel within seven days of  
5 transfer.

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

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



1 Any person possessing a commercial permit shall be required to  
2 meet minimum revenue standards, as a condition of retaining or  
3 renewing the commercial permit.

4 ~~[(e)]~~ (h) The department may designate moorage space  
5 within state small boat harbors to accommodate commercial  
6 fishing vessels and transient vessels.

7 ~~[(f)]~~ (i) All revenues from the foregoing operations shall  
8 be deposited in the boating special fund."

9 SECTION 3. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 4. This Act shall take effect on July 1, 2011.

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INTRODUCED BY:

*Denny Coffman*  

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*Cindy Evans*  

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JAN 25 2011



**Report Title:**

Small Boat Harbors; Expired Permits; Notice; Renewal

**Description:**

Requires the DLNR to notify mooring permit holders of expired permits. Provides an opportunity to reinstate an expired mooring or non-mooring use permit.

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