
A BILL FOR AN ACT

RELATING TO VESSELS.

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

1 SECTION 1. Chapter 200, Hawaii Revised Statutes, is
2 amended by amending part III as follows:
3 1. By amending section 200-41 to read:
4 " ~~[+]§200-41[+]~~ **Disposition [by chairperson] of certain**
5 **abandoned vessels.** (a) Any vessel [which:
6 ~~(1) Has been left unattended for a continuous period of~~
7 ~~more than thirty days; and~~
8 ~~(2) Is within the waters of the State or on public~~
9 ~~property, or is on private property without~~
10 ~~authorization of the owner or occupant of the~~
11 ~~property,~~
12 ~~may be caused by the chairperson to be taken into custody and~~
13 ~~disposed of pursuant to this part.]~~ may be deemed abandoned if
14 the vessel has been moored or otherwise left in the waters of
15 the State or on public property contrary to law or rules having
16 the force and effect of law, or left on private property without
17 authorization of the owner or occupant of the property if:



- 1 (1) The vessel's registration certificate or marine
2 document has expired and the registered owner no
3 longer resides at the address listed in the vessel
4 registration or marine document records of the
5 department or the United States Coast Guard;
- 6 (2) The last registered owner of record disclaims
7 ownership and the current owner's name or address
8 cannot be determined;
- 9 (3) The vessel identification numbers and other means of
10 identification have been removed so as to hinder or
11 nullify efforts to locate or identify the owner;
- 12 (4) The vessel registration records of the department of
13 land and natural resources and the marine document
14 records of the United States Coast Guard contain no
15 record that the vessel has ever been registered or
16 documented and the owner's name or address cannot be
17 determined; or
- 18 (5) The requirements of section 200-52 are met.
- 19 (b) The determination whether a vessel is abandoned may be
20 made by:



- 1 (1) The chairperson, with regard to public property under
2 the jurisdiction of the department of land and natural
3 resources; or
- 4 (2) Any other state department or agency through its
5 director, with regard to public property within the
6 department or agency's respective jurisdiction; or
- 7 (3) Any county through its mayor or chief of police, with
8 regard to public property within the respective
9 county's jurisdiction.

10 Once a vessel is deemed abandoned, the appropriate official
11 under this subsection may direct and cause the vessel to be
12 taken into custody and disposed of pursuant to and in the manner
13 provided in this chapter.

14 (c) All vessels abandoned on private property shall be the
15 responsibility of the private property owner."

16 2. By amending section 200-42 to read:

17 "**§200-42 Notice to owner.** [~~Upon~~] A state or county
18 agency, upon taking custody of any vessel, [a written notice]
19 shall immediately [be posted] post a written notice on the
20 vessel and send a duplicate original [sent] by registered or
21 certified mail, with a return receipt requested, to [the] any
22 owner registered with the department or documented by the United



1 States Coast Guard or any lien holder or operator of the vessel
2 on record with the department of land and natural resources or
3 the United States Coast Guard at their respective last known
4 address on record with the department or the United States Coast
5 Guard. The notice shall contain a brief description of the
6 vessel, the location of custody, and the intended disposition of
7 the vessel if not repossessed within twenty days after the
8 mailing of the notice. Such owner, lien holder, or operator, of
9 the vessel shall have ten days after receipt of the mailed
10 notice to request in writing an administrative hearing[-]
11 pursuant to chapter 91 from the state or county agency that took
12 custody of the vessel. This administrative hearing is solely
13 for the purpose of allowing the owner, lien holder, or operator
14 of an impounded vessel to contest the basis given [~~by the~~
15 ~~department~~] for the impoundment of the vessel. The hearing
16 [~~must~~] shall be held within five working days of the
17 [~~department's~~] state or county agency's receipt of the written
18 request."

19 3. By amending section 200-44, to read:

20 "**§200-44 Possession by interested party.** Any person
21 having an interest in the vessel taken into custody may take
22 possession of the vessel prior to the date of public auction



1 upon payment to the [~~department~~] state or county agency that
2 took custody of the vessel of all use fees, towing, handling and
3 storage charges, appraisal and advertising expenses, and any
4 other expenses incurred by [~~the department~~] that state or county
5 agency in connection with the vessel. If the person taking
6 possession of the vessel is not the registered or documented
7 owner, the person, prior to taking possession of the vessel,
8 shall pay the foregoing expenses and post security satisfactory
9 to the [~~department~~] state or county agency, which shall not
10 exceed the value of the vessel. The security, if not forfeited,
11 shall be returned to the person posting it within two years
12 after receipt."

13 4. By amending section 200-45 to read:

14 "**§200-45 When public auction not required.** Public auction
15 shall not be required when the appraised value of any vessel is
16 less than \$5,000, as determined by an independent appraiser who
17 has at least one year of experience in the sale or purchase of
18 vessels. Upon that determination, after public notice of
19 intended disposition has been given at least once, the
20 [~~department~~] state or county agency that took custody of the
21 vessel may sell the vessel by negotiation, dispose of it as
22 junk, or donate the vessel to any governmental agency."



1 5. By amending section 200-46 to read:

2 "~~[+]~~**§200-46**~~[+]~~ **Effect of sale.** The transfer of interest
3 by sale hereunder shall be evidenced by a bill of sale from the
4 ~~[department,]~~ appropriate state or county agency, shall be
5 considered a transfer by operation of law, and shall be governed
6 by provisions applicable thereto."

7 6. By amending section 200-47 to read:

8 "**§200-47 Disposition of proceeds.** ~~[The department]~~ A
9 state or county agency that sells a vessel pursuant to this part
10 shall deposit that portion of the proceeds of the sale of [a]
11 the vessel that represents the mooring or other fees and charges
12 due the ~~[department]~~ agency, the expenses of the auction, and
13 any other expense incurred by the ~~[department]~~ agency in taking
14 into custody and disposing of an abandoned vessel, derelict
15 vessel, or vessel impounded under section 200-16, into the
16 boating special fund or other state or county fund, as
17 appropriate, from which the expenses incurred in connection with
18 the vessel were paid. The balance, if any, shall be deposited
19 into the general fund of the State. The owner may recover any
20 balance of the proceeds from the State only if the owner files a
21 claim therefor with the department of budget and finance within
22 one year after the execution of the bill of sale. If no claim



1 is made within the year allowed, the money shall become a state
2 realization. A lien holder shall receive priority in payment
3 from the balance of the proceeds to the extent of the lien
4 holder's lien on the vessel. If the proceeds of the sale are
5 insufficient to cover the mooring and other fees and charges,
6 the expenses of the auction, and the other expenses incurred by
7 the ~~[department]~~ agency in taking into custody and disposing of
8 the vessel, the ~~[department]~~ agency may bring an action for the
9 deficiency in a court of appropriate jurisdiction against the
10 registered or documented owner or any person who had an interest
11 in the vessel when custody was taken by the ~~[department]~~
12 agency."

13 SECTION 2. Chapter 200, Hawaii Revised Statutes, is
14 amended by amending the title of part IV to read as follows:

15 "PART IV. VESSELS ABANDONED ON ~~[BUSINESS]~~ PREMISES
16 OF PERSONS ENGAGED IN REPAIR BUSINESS,
17 PRIVATE MARINAS, ~~[AND]~~ YACHT CLUBS,
18 OR ON OTHER PRIVATE PROPERTY"

19 SECTION 3. Section 200-51, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§200-51 Disposition of vessels ~~[by persons in]~~ abandoned
22 on premises of vessel repair business, private marinas, ~~[or]~~



1 yacht clubs[-], or other private property. When any person
2 abandons a vessel upon the premises of a vessel repair business,
3 a private marina, [~~or~~] a yacht club, [~~the~~] or other private
4 property, the owner of the vessel repair business or private
5 marina, or the owner's representative[~~-or~~]; the designated
6 representative of the yacht club[~~-~~]; or the owner of other
7 private property, may sell or dispose of the vessel in accord
8 with this part."

9 SECTION 4. Section 200-52, Hawaii Revised Statutes, is
10 amended by amending its title to read as follows:

11 "**§200-52 When vessel deemed abandoned[-] on the premises**
12 **of a vessel repair business, private marina, or yacht club.**"

13 SECTION 5. Section 200-53, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§200-53 Sale or disposition of vessel.** When a vessel is
16 abandoned, the owner of the vessel repair business[~~-~~] or private
17 marina, or the owner's authorized representative[~~-or~~]; the
18 designated representative of the yacht club[~~-~~]; or the owner of
19 other private property, after one public advertisement in a
20 newspaper of general circulation in the State, may negotiate a
21 sale of the vessel or dispose of it; provided that the vessel
22 shall not be sold or disposed of less than five calendar days



1 after the publication of the advertisement. Upon the sale or
2 disposal of the vessel under this part, the owner of the vessel
3 repair business~~[]~~ or private marina, or the owner's authorized
4 representative~~[]~~; the designated representative of the yacht
5 club~~[]~~; or the owner of other private property, shall file an
6 affidavit with the department of land and natural resources
7 stating to whom the vessel was sold or, if the vessel was not
8 sold, the manner in which the vessel was disposed of pursuant to
9 this part."

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

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



Report Title:

Vessels; Custody and Disposition

Description:

Clarifies responsibility for disposing of vessels and amends the description of an abandoned vessel. (HB2589 HD1)

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