

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the House Committee on  
WATER & LAND**

**Friday, March 07, 2014  
10:00 A.M.  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 2877, SENATE DRAFT 1  
RELATING TO USE PERMITS FOR SMALL BOAT HARBOR FACILITIES**

Senate Bill 2877, Senate Draft 1, proposes to clarify that no use permit for a state small boat harbor facility may be transferred unless specifically provided by law. **The Department of Land and Natural Resources (Department) strongly supports this Administration measure.**

This bill proposes to clarify that use permits issued to a corporation or other business entity for a state small boat facility may only be transferred if the corporation or other business entity holds a valid commercial use permit. It also clarifies that if a corporation is owned by another corporation, any change in ownership of either corporation constitutes as a transfer. This will ensure that the issuance of use permits for small boat harbors and related facilities are done fairly and prevents people from being exempt from paying a transfer fee by forming multiple corporations.

The companion bill to this measure is House Bill 2327. Upon hearing the bill, this Committee requested additional clarification to the term "control". The Department offered the following amendments:

§200-10(b):

(b) No use permit may be transferred unless specifically provided by law. For purposes of this section, the term "transfer" includes any change in control, by whatever means, of any entity that owns or controls, directly or indirectly, a use permit. The term "control" for purposes of this section means the power or authority to manage or direct, or have influence over, a use permit.

**WILLIAM J. AILA, JR.**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA  
FIRST DEPUTY

**WILLIAM M. TAM**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
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FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

§200-10 (e)(2):

- (2) The seller shall pay the department a business transfer fee based on the passenger-carrying capacity of the vessels owned or operated by the corporation or business entity as provided by rules adopted by the chairperson pursuant to chapter 91. Transfers of stock or interest in a corporation or other business entity between immediate family members solely for estate planning purposes are exempt from this subsection.



# Ocean Tourism Coalition

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March 7, 2014

Testimony To: House Committee on Water and Land  
Representative Cindy Evans, Chair

From: Tim Lyons, CAE  
Executive Director

Subject: S.B. 2877, SD 1 - RELATING TO USE PERMITS FOR SMALL BOAT  
HARBOR FACILITIES.

Chair Evans and Members of the Committee:

I am Tim Lyons, Executive Director of the Ocean Tourism Coalition and we support the intent of this bill but request amendments.

This bill could directly affect the viability and financial status of many ocean tourism companies. While it is acknowledged that use permits are generally based on a limited time it has been standard practice for the Department to continue the re-registration of those permits as long as the licensee was not in violation of any law, rule or regulation of the Department. Our particular concern is that the passing on of a business that has been built for many, many years in which thousands and thousands of dollars have been invested could have a financial impact under this bill merely by transferring the

business from the owner to a nephew. It could also be affected by rearranging some of the percentage of shares of ownership in the corporation. The definition of "control" needs an additional qualifier by adding "or have controlling interest over" which will eliminate possibilities of having a "minor" influence over a use permit.

Second, we would agree with the exemption on page 4 in Section (f) 2 regarding transfers between family members but think that a transfer for just about any person should be exempt as opposed to limiting it to just "solely for estate planning purposes". This should be deleted.

Based on those two amendments we can support this bill.

Thank you.