

JAN 24 2018

S.B. NO. 3043

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 Act 197, Session
2 Laws of Hawaii 2011 (Act 197), addressed the repair and
3 maintenance needs of the State's small boat harbors.
4 Specifically, the facilities of the Ala Wai boat harbor needed
5 repairs and further maintenance. Furthermore, certain assets
6 within the facilities at the Ala Wai boat harbor were identified
7 as being underused but, if properly developed, having the
8 potential of generating revenues to enable not only the
9 continued improvement and maintenance of the Ala Wai boat harbor
10 but also the improvement and maintenance of the rest of the
11 facilities operated by the division of boating and ocean
12 recreation of the department of land and natural resources.
13 Accordingly, Act 197, among other things, directed the
14 department of land and natural resources to lease fast lands and
15 submerged lands at the Ala Wai boat harbor using the request for
16 proposals process to enter into a public-private partnership for
17 the development of portions of Ala Wai boat harbor facilities



1 that were underused to maximize the revenue potential of its
2 facilities.

3 The purpose of this Act is to:

- 4 (1) Repeal the exemption from any special improvement
5 district assessment or requirement imposed by a county
6 for the redevelopment of the Ala Wai boat harbor; and
7 (2) Amend the permissible uses of any leased fast lands
8 and submerged lands at the Ala Wai boat harbor for
9 public-private partnership development, management,
10 and operation of areas of Ala Wai boat harbor
11 facilities.

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

14 "(e) Exemptions.

- 15 (1) Property owned by the state or county governments or
16 entities, may be exempt from the assessment except as
17 provided in paragraph (3);
18 (2) Property owned by the federal government or entities,
19 shall be exempt from the assessment except as provided
20 in paragraph (3);



1 (3) If a public body owning property, including property
2 held in trust for any beneficiary, which is exempt
3 from an assessment pursuant to paragraphs (1) and (2),
4 grants a leasehold or other possessory interest in the
5 property to a nonexempt person or entity, the
6 assessment, notwithstanding paragraphs (1) and (2),
7 shall be levied on the leasehold or possessory
8 interest and shall be payable by the lessee; and

9 ~~[-(4) The redevelopment of the Ala Wai boat harbor shall be~~
10 ~~exempt from the assessment and any special improvement~~
11 ~~district requirements authorized by subsection (a);~~
12 ~~and~~

13 ~~-(5)]~~ (4) No other properties or owners shall be exempt
14 from the assessment unless the properties or owners
15 are expressly exempted in the ordinance establishing a
16 district adopted pursuant to this section or amending
17 the rate or method of assessment of an existing
18 district."

19 SECTION 3. Act 197, Session Laws of Hawaii 2011, is
20 amended by amending section 8 to read as follows:



"SECTION 8. (a) Pursuant to section 200-2.5, Hawaii Revised Statutes, the department of land and natural resources is directed to lease fast lands and submerged lands at the Ala Wai boat harbor using the request for proposals process for the public-private development, management, and operation of areas of Ala Wai boat harbor.

(b) The fast lands and submerged lands of the Ala Wai boat harbor that may be leased include the lands described in section 200- , Hawaii Revised Statutes.

(c) The permissible uses under the lease issued pursuant to subsection (a) shall include:

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

(A) Notwithstanding section 200-9(b), Hawaii Revised Statutes, not more than forty berths shall be available for vessels used for purposes of recreational boating activities that are also the principal habitation of the owners;

(B) Not more than thirty berths, including those allowed pursuant to section 200-9(c), Hawaii



1 Revised Statutes, shall be available for vessels
2 issued commercial use permits; and

3 (C) All berths provided under this paragraph shall be
4 made available to the public pursuant to rules of
5 the department of land and natural resources,
6 with moorage fees to be determined by the
7 developer;

8 (2) Office space for use by the division of boating and
9 ocean recreation of the department of land and natural
10 resources; provided that any structure or building
11 containing such office space shall not exceed fifteen
12 feet in height;

13 (3) Vehicular parking, including parking stalls for use by
14 the division of boating and ocean recreation of the
15 department of land and natural resources and for
16 public metered parking;

17 (4) Commercial uses, including but not limited to
18 restaurants, retail stores, marine-supplies stores,
19 and sundry stores, to be made available to the public;
20 provided that any structure or building containing



1 such commercial uses shall not exceed fifteen feet in
2 height;

3 ~~[(5) Hotel, residential, and timeshare uses;~~

4 ~~(6)]~~ (5) Training facilities for ocean recreation and
5 support facilities for ocean recreation;

6 ~~[(7)]~~ (6) Any uses described or referred to in the request
7 for qualifications or request for proposals issued by
8 the division of boating and ocean recreation of the
9 department of land and natural resources on November
10 25, 2008;

11 ~~[(8)]~~ (7) Vessel-fueling facilities;

12 ~~[(9)]~~ (8) Vessel haul-out, storage, and repair facilities;
13 and

14 ~~[(10)]~~ (9) Deep seawater air-conditioning plants.

15 (d) The lease shall not exceed a maximum term of sixty-
16 five years and shall provide for:

17 (1) A minimum lease rent that is the greater of a
18 commercially acceptable percentage of the gross
19 receipts of the lessee from the developed leased
20 premises or a fair return on the fair market value of
21 the vacant leased premises, as determined by appraisal



1 by a state-licensed appraiser approved by the
2 department, with reasonable periodic step-ups in the
3 minimum lease rent over the term of the lease; and

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

6 (e) Notwithstanding chapter 171 and section 190D-33,
7 Hawaii Revised Statutes, all revenues from the lease shall be
8 deposited in the boating special fund.

9 (f) Notwithstanding chapters 171 and 190D, Hawaii Revised
10 Statutes, the lease of fast lands and submerged lands of Ala Wai
11 boat harbor shall be subject to section 200-2.5(a), Hawaii
12 Revised Statutes.

13 (g) Notwithstanding section 171-53, Hawaii Revised
14 Statutes, the prior authorization of the legislature by
15 concurrent resolution shall not be required for the lease of
16 submerged lands and lands beneath tidal waters at the Ala Wai
17 boat harbor."

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20



S.B. NO. 3043

1 SECTION 5. This Act shall take effect upon its approval.

2
INTRODUCED BY: By



S.B. NO. 3043

Report Title:

Small Boat Harbors; Ala Wai Boat Harbor; Leases; Permissible Uses

Description:

Repeals the exemption from any special improvement district assessment or requirement imposed by a county for the redevelopment of the Ala Wai boat harbor. Amends the permissible uses of any leased fast lands and submerged lands at the Ala Wai boat harbor for public-private partnership development, management, and operation of areas of Ala Wai boat harbor facilities.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

