



GOV. MSG. NO. 1142

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 8, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 8, 2021, the following bill was signed into law:

SB795 SD2 HD1

RELATING TO STATE SMALL BOAT HARBOR
FEES
ACT 042(21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO STATE SMALL BOAT HARBOR FEES.

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

1 SECTION 1. The legislature finds that the department of
2 land and natural resources' division of boating and ocean
3 recreation is responsible for operating and maintaining dozens
4 of facilities and installations for the boating public in
5 addition to regulating ocean recreation activities in state
6 ocean waters from the shoreline to three nautical miles from
7 shore.

8 The division of boating and ocean recreation is responsible
9 for operating and maintaining seventeen small boat harbors
10 statewide. The small boat harbor program, which had a
11 \$300,000,000 backlog in deferred maintenance projects, was
12 transferred from the department of transportation to the
13 department of land and natural resources in 1991. Adjusted for
14 inflation, the deferred maintenance balance is equivalent to
15 approximately \$570,000,000 in 2021. The current deferred
16 maintenance balance of the state small boat harbor program is
17 approximately \$310,000,000, a roughly forty-six per cent



1 decrease since 1991, when adjusted for inflation. While the
2 department of land and natural resources has been able to
3 incrementally decrease the deferred maintenance balance,
4 inflation and rising costs have outpaced, and continue to
5 outpace, the division of boating and ocean recreation's revenue
6 generation capabilities and the legislature's ability to fund
7 maintenance projects through capital funds. The legislature
8 recognizes that the coronavirus disease 2019 (COVID-19) pandemic
9 has exacerbated economic issues statewide, affecting the boating
10 and ocean recreation program just as much as other government
11 programs.

12 Generally, the small boat harbor program operates at a
13 loss, with only a few small boat harbors generating revenue from
14 mooring fees sufficient to offset costs. The legislature notes
15 that the inability to collect adequate small boat harbor fees is
16 one of the factors preventing the division of boating and ocean
17 recreation from generating sufficient revenue. Continuing
18 inadequate revenue generation will lead to a reduction in
19 services offered by the division of boating and ocean
20 recreation, increased delays in addressing maintenance needs at



1 small boat harbors, and a potential inability to maintain clean
2 and sanitary facilities for the public.

3 The legislature further finds that public health and safety
4 are at risk if the small boat harbor program cannot increase
5 revenues. Enforcement patrols are necessary to reduce criminal
6 activity and provide regular police presence in division of
7 boating and ocean recreation facilities.

8 Additionally, the legislature recognizes that improving the
9 division of boating and ocean recreation's ability to generate
10 revenue will help the division to better maintain and repair
11 small boat harbors and fund enforcement efforts through the
12 department of land and natural resources' division of
13 conservation and resources enforcement.

14 Accordingly, the purpose of this Act is to:

15 (1) Require the division of boating and ocean recreation
16 to set its small boat harbor mooring and liveaboard
17 fees at fair market value, as determined by a state-
18 licensed appraiser, without separate nonresident fees
19 and cost-of-living adjustments; and



1 (2) Allow the division of boating and ocean recreation an
2 additional option in determining commercial ocean
3 operation fees.

4 SECTION 2. Section 200-10, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

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

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



~~(A) Schedule A shall include existing mooring
permittees; and
(B) Schedule B shall apply to all new mooring
applicants and transient slips on or after
July 1, 2011,
provided further that schedule A rates shall be
increased by the same amount each year so that
schedule A rates equal schedule B rates by July 1,
2014];~~

(2) For commercial maritime activities [~~where there is~~] in
which a tariff is established by the harbors division
of the department of transportation, the department
may adopt the published tariff of the harbors division
of the department of transportation or establish the
fee by appraisal by a state-licensed appraiser
approved by the department;

(3) An application fee shall be collected when applying
for moorage in state small boat harbors and shall
thereafter be collected annually when the application
is renewed[~~-. The~~]; provided that the application fee
shall be[+]



1 ~~(A) Set~~ set by the department; [and

2 ~~(B) Not less than \$100 for nonresidents;~~]

3 (4) If a recreational vessel is used as a place of
4 principal habitation, the permittee shall pay, in
5 ~~[addition to]~~ in lieu of the moorage fee~~[7]~~ required
6 by paragraph (1), a monthly liveaboard fee that shall
7 be ~~[calculated at a rate of:~~

8 ~~(A) \$5.20 a foot of vessel length a month if the~~
9 ~~permittee is a state resident; and~~

10 ~~(B) \$7.80 a foot of vessel length a month if the~~
11 ~~permittee is a nonresident;~~

12 ~~provided that the liveaboard fees established by this~~
13 ~~paragraph may be increased by the department at the~~
14 ~~rate of the annual cost of living index, but not more~~
15 ~~than five per cent in any one year, beginning July 1~~

16 ~~of each year;]~~ two times the moorage fee that would
17 otherwise be assessed for a vessel of the same size;

18 (5) If a vessel is used for commercial purposes from ~~[its]~~
19 the vessel's permitted mooring, the permittee shall
20 pay, in lieu of the moorage ~~[and liveaboard]~~ fee~~[7]~~



1 required by paragraph (1), a monthly fee [based on
2 three] that shall be the greater of:

3 (A) Three per cent of the gross revenues derived from
4 the use of the vessel; [or two]

5 (B) \$1.50 per passenger carried for hire; or

6 (C) Two times the moorage fee that would otherwise be
7 assessed for a recreational vessel of the same
8 size[, whichever is greater, and];

9 (6) The department is authorized to assess and collect
10 utility fees, including electrical and water charges,
11 and common-area maintenance fees in small boat
12 harbors[-]; and

13 (7) All fees established by appraisal pursuant to this
14 subsection shall be set at fair market value."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

APPROVED this 08 day of JUN , 2021



GOVERNOR OF THE STATE OF HAWAII

SB No. 795, SD 2, HD 1

THE HOUSE OF REPRESENTATIVES OF THE
STATE OF HAWAII

Date: April 8, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives

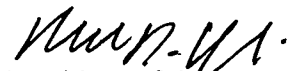



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: April 16, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate
of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021.


President of the Senate


Clerk of the Senate