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S. B. NO. 1355-72

A Bill for an Act Relating to Abandoned Vessels.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 267A of the Hawaii Revised Statutes, is amended as follows:

(1) By designating Section 267A-1 to 267A-7 as Part I entitled “VES-

SELS ABANDONED ON PUBLIC AND PRIVATE PROPERTY GENERALLY;"

(2) By adding to Part I the following new sections to be appropriately designated and to read:

"Sec. 267A Derelict vessel. A vessel which has been left unattended for a continuous period of more than twenty-four hours is a derelict if:

- (1) the vessel is sunk or in immediate danger of sinking, is obstructing a waterway, or is endangering life or property; or
- (2) the vessel has been moored or otherwise left in the waters of the State or on public property contrary to law, or rules and regulations having the force and effect of law, or the vessel has been left on private property without authorization of the owner or occupant of the property and if:
 - (A) the vessel's certificate of number or marine document has expired and the registered owner no longer resides at the address listed in the vessel registration or marine document records of the department of transportation or the U.S. Coast Guard; or
 - (B) the last registered owner of record disclaims ownership and the current owner's name or address cannot be determined; or
 - (C) the vessel identification numbers and other means of identification have been removed so as to nullify efforts to locate or identify the owner; or
 - (D) the vessel registration records of the department of transportation and the marine document records of the U.S. Coast Guard contain no record that the vessel has ever been registered or documented and the owner's name or address cannot be determined.

Sec. 267A Disposition of derelict vessel. The director of transportation may cause a derelict vessel to be immediately taken into custody. Upon taking custody of a derelict vessel the director shall concurrently (1) publish a notice of intended disposition, once, in a newspaper of general circulation; (2) when possible, post a notice of intended disposition on the vessel; and (3) serve a duplicate original of the notice of intended disposition by certified mail, return receipt requested on (A) the registered owner of the vessel, if known, at his last known address or the address on record in the U.S. Coast Guard, and (B) all lien holders who have filed a financing statement indexed in the name of the registered owner in the bureau of conveyances or who are shown on the records of the department of transportation or U.S. Coast Guard. If the vessel is not repossessed within twenty days after the publication or mailing of the notice, whichever occurs later, the vessel may be disposed of by negotiated sale except that, when two or more purchasers indicate an interest in purchasing the vessel, the vessel will be sold at public auction to the highest bidder.

If no purchaser expresses a desire to purchase the vessel, the vessel may be destroyed.”

(3) By adding a new Part II to be appropriately designated and to read:

**“PART II. VESSELS ABANDONED ON BUSINESS PREMISES
OF PERSONS ENGAGED IN REPAIR BUSINESS**

Sec. 267A Disposition of vessels by persons in vessel repair business.

When any person abandons a vessel upon the premises of a vessel repair business, the owner of the business or his authorized representative may sell or dispose of the vessel in accord with this part.

Sec. 267A When vessel deemed abandoned. A vessel shall be deemed to be abandoned upon satisfaction of all the following conditions:

(1) The service requested or required by a person whose vessel is towed or brought to a vessel repair business, such as towing and rendering estimates of the cost of repairs, has been performed; and

(2) No authorization is given to perform any further service respecting the vessel but the vessel is left on the repair business premises; and

(3) The owner of the repair business or his authorized representative has given notice by registered or certified mail, to the registered owner of the vessel at the address on record at the vessel repair business and the address on record in the department of transportation or U.S. Coast Guard, and to any person with a recorded interest in the vessel stating that, if the vessel is not repossessed within thirty days after the mailing of the notice, it will be sold or disposed of. The notice also shall contain a description of the vessel and its location. The notice need not be sent to an owner or any person with an unrecorded interest in the vessel whose name or address cannot be determined; and

(4) The vessel is not repossessed within the above-mentioned thirty-day period.

Sec. 267A Sale or disposition of vessel. When a vessel is abandoned, the owner of the vessel repair business, or his authorized representative, after one public advertisement in a newspaper of general circulation in the State, may negotiate a sale of the vessel or dispose of it; provided that the vessel shall not be sold or disposed of less than five days after the publication of the advertisement.

Sec. 267A Disposition of proceeds. The authorized seller of the vessel shall be entitled to the proceeds of the sale to the extent that compensation is due him for services rendered in respect of the vessel, including reasonable and customary charges for towing, handling, storage, and the cost of the notices and advertising required by this part. A lien holder shall receive priority of payment from the balance to the extent of his lien. Any remaining balance shall be forwarded to the registered owner of the vessel, if he can be found. If he cannot be found, the balance shall be deposited with the director of finance of the State and shall be paid out to the registered owner of the vessel,

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if a proper claim is filed therefor within one year from the execution of the sale agreement. If no claim is made within the year allowed, the money shall become a State realization.

Sec. 267A Effect of transfer of title. The transfer of title and interest by sale under this part is a transfer by operation of law; provided that a bill of sale executed by an authorized seller is satisfactory evidence authorizing the transfer of the title or interest.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 9, 1972.)