

**ACT 221**

**H.B. NO. 1499**

**A Bill for an Act Relating to Small Boat Harbors.**

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

**SECTION 1.** The purpose of this Act is to amend chapter 266, Hawaii Revised Statutes, to effect more efficient and responsive administration and to

defray the initial cost of the state small boating program.

SECTION 2. Section 266-20, Hawaii Revised Statutes is amended to read:

**“Section 266-20 Boating program: payment of costs.** The cost of administering a comprehensive statewide boating program including the cost of (1) operating, maintaining, and managing all boating facilities under the control of the department of transportation; (2) improving boating safety; (3) operating a vessel registration and boating casualty investigation and reporting system; (4) enforcing boat harbor, navigation, shore waters and beach laws and regulations; (5) assisting in abating air, water, and noise pollution related to small craft; (6) other boating program activities; shall be paid from the boating special fund; and (7) the amortization (principal and interest) of the costs of capital improvements for boating facilities appropriated after July 1, 1975, including, but not limited to, berths, slips, ramps, and related accommodations, may be paid from the boating special fund or from general revenue as the Legislature may authorize in each situation. Provided, however, that the amortization of the costs of constructing general navigation channels, breakwaters, aids to navigation and other harbor protective structures shall be from general revenues. Revenues provided in this chapter for the boating special fund shall be at least sufficient to pay the special fund costs established herein.”

SECTION 3. Section 266-21, Hawaii Revised Statutes, is amended to read:

**“Section 266-21 Purpose and use of state small boat harbors.** State small boat harbors are constructed, maintained, and operated for the primary purpose of promoting recreational boating activities and the landing of fish. For the purpose of this section “recreational boating activities” means the utilization of watercraft for sports, hobbies or pleasure. To implement this purpose, only vessels in good material and operating condition that are regularly navigated beyond the confines of the small boat harbor, and which are used for recreational activities or the landing of fish shall be permitted to moor, anchor, or berth at such harbor or use any of its facilities. Vessels used for purposes of recreational boating activities which are also the principal habitation of the owner shall occupy no more than fifteen percent of the respective total moorage space available as of July 1, 1976 at the Ala Wai and Keehi boat harbors. Furthermore, moorage for commercial vessels is permitted in a state small boat harbor in cases where there is no commercial harbor within a distance of three statute miles. The department may adopt rules and regulations pursuant to chapter 91 to further implement this section.”

SECTION 4. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Section 266- Permits and fees for state small boat harbors.** (a) No person shall moor a vessel in a state small boat harbor without first obtaining a use permit from the department of transportation.

(b) In order to obtain a permit, or a permit renewal, the owner of a vessel shall provide, at his own expense, a marine surveyor’s inspection no more than

two years old, certifying that the surveyor has inspected the vessel and considers it to fulfill the requirements set by the department of transportation.

(c) The permittee shall pay moorage fees to the department for said use permit which shall be based on, but not limited to, the use of the vessel, its effect on the harbor, and use of facilities; and, furthermore:

- (1) Moorage fees shall be established by the department and shall be higher for non-residents.
- (2) 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. It shall be:
  - (i) Set by the department; and
  - (ii) Not less than \$100.00 for non-residents.
- (3) If a recreational vessel is used as a place of principal habitation, the permittee shall pay, in addition to the moorage fee, a liveaboard fee which will be:
  - (i) Not less than two times the moorage fee if the permittee is a state resident; and
  - (ii) Not less than three times the moorage fee if the permittee is a non-resident.
- (4) If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay in lieu of the moorage and liveaboard fees, a fee based on a percentage of the gross revenues derived from the vessel.
- (d) The department may provide moorage space within state small boat harbors to accommodate visitors on cruising vessels.
- (e) All revenues from the foregoing operations shall be deposited in the boating special fund.
- (f) The department may adopt rules and regulations pursuant to chapter 91 to further implement this section and other sections pertaining to state small boat harbors."

SECTION 5. Section 266-17, Hawaii Revised Statutes, is amended to read:

**"Section 266-17 Rates, how fixed.** The department of transportation shall adjust and fix and enforce the rates assessable and chargeable by it in respect to dockage, wharfage, demurrage, and other rates and fees pertaining to harbors, wharves, and properties managed and operated by it so as to produce from the rates and fees:

- (1) In respect to all such harbors, wharves and other properties, except such as are principally used for recreation or the landing of fish, revenues sufficient to:
  - (A) Pay when due the principal of and interest on all bonds and other obligations for the payment of which the revenue is or has been pledged, charged, or otherwise encumbered, or which are otherwise payable from the revenue or from a special fund maintained or to be maintained from the revenue, including reserves therefor, and to maintain the special fund in an amount at least sufficient to pay when due all bonds or other revenue obligations

- and interest thereon, which are payable from the special fund, including the reserves therefor;
- (B) Provide for all expenses of operation and maintenance of the properties, including reserves therefor, and the expenses of the department in connection with operation and maintenance; and
  - (C) Reimburse the general fund of the State for all bond requirements for general obligation bonds which are or have been issued for harbor or wharf improvements, or to refund any of the improvement bonds, excluding bonds, the proceeds of which were or are to be expended for improvements which are or will be neither revenue producing nor connected in their use directly with revenue producing properties.”

SECTION 6. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Section 266- Existing permits.** An owner of a vessel used as a place of principal habitation holding a permit for that use in a state small boat harbor on the effective date of this Act may continue to moor his vessel in that harbor for such purpose and be permitted to renew his permit provided that he conforms to conditions set forth in section 3 and 4 of this Act. The percentage established in section 266-21 for maximum use of harbor moorage space for principal habitation at the Ala Wai and Keehi Harbors shall not apply to these boat owners until their total number reduces by attrition to that percentage in each harbor.”

SECTION 7. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Section 266- Administration of state small boat harbors.** The department shall organize the harbors division to include a separate branch whose sole purpose shall be the administering of the state small boat harbors and the state comprehensive recreational boating program. The branch shall:

- (1) Develop necessary rules and regulations under Section 266-3, Hawaii Revised Statutes, for the purposes of this section.
- (2) Organize a comprehensive recreational boating program.
- (3) Develop standard permits, and fees, for moorage in state small boat harbors to comply with section 4 of this Act.”

SECTION 8. Chapter 266, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“**Section 266- Marine inspections.** (a) The department shall (1) develop a list of minimum requirements for the marine inspection of vessels seeking permits to moor in state small boat harbors, (2) approve qualified marine surveyors to inspect vessels seeking permits to moor in state small boat harbors, and (3) approve a fee schedule for marine surveyors’ inspections.

(b) Vessels failing the marine inspection for a permit or a permit renewal shall have thirty days to correct deficiencies and complete the inspection.

(c) Owners of vessels that fail the marine inspection may contest the inspection at an arbitration board of three approved inspectors and the original inspector.”

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SECTION 9. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 10. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material or the underscoring.\*

SECTION 11. This Act shall take effect upon its approval.

(Approved June 9, 1976.)

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\*Edited accordingly.