

ACT 224

S.B. NO. 691

A Bill for an Act Relating to Permits for State Small Boat Harbors.

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

SECTION 1. Section 266-21.1, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) After June 30, 1980, the department of transportation shall not renew or issue a permit to a person who is not the owner of the vessel which is moored or which the person desires to moor in a state small boat harbor. Any individual who is an owner of a vessel used for commercial purposes, including commercial fishing as a principal means of livelihood, and possesses a valid mooring permit or commercial permit or both, may, in accordance with the rules adopted by the department pursuant to chapter 91, transfer ownership of the vessel from personal ownership to corporate or other business ownership without terminating the right to moor or operate the vessel under the permit or permits. The existing permit or permits shall be reissued in the name of the transferee corporation or other business entity.

For the purposes of this section, “person” means any individual, firm, partnership, corporation, trust, association, joint venture, organization, institution, or any other legal entity, and “owner” includes the legal owner of a vessel where

there is no security interest held by anyone on the vessel, a buyer under a purchase money security interest, a debtor under any security interest, a demise charterer of a vessel, or a lessee or charterer of a vessel under a lease or charter which provides the lessee or charterer with exclusive right to possession of the vessel to the exclusion of the lessor or the person from whom the vessel is chartered. No permittee shall be allowed to moor a leased vessel in a berth unless the terms of the lease are set at fair market value. A "legal owner" includes a person who holds unencumbered title to a vessel or is a secured party under a security interest in the vessel. An owner who is issued a permit to moor a vessel in a state small boat harbor shall notify the department in writing of a transfer of interest or possession in the vessel within seven days of transfer.

Any person owning an interest in a corporation or other business entity possessing a valid commercial permit issued by the department may, in accordance with rules adopted by the department pursuant to chapter 91, transfer any or all stock or other interest to another person without terminating the right of the corporation or business entity to retain or renew its commercial permit or any other permit issued to it by the department; provided that the corporation or business entity has been engaged in the same commercial vessel activity, as defined in section 266-21, for a minimum of one year; and provided further that 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 department pursuant to chapter 91. Any person possessing a commercial permit shall be required to meet minimum revenue standards, as provided by rules adopted by the department pursuant to chapter 91, as a condition of retaining or renewing the commercial permit."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1989.)