

JAN 25 2010

A BILL FOR AN ACT

RELATING TO VESSELS AT ALA WAI AND KEEHI BOAT HARBORS.

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

1 SECTION 1. Section 200-9, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Vessels used for purposes of recreational boating
4 activities which are also the principal habitation of the owners
5 shall occupy no more than one hundred twenty-nine berths at the
6 Ala Wai boat harbor and thirty-five berths at Keehi boat harbor,
7 which is equal to fifteen per cent of the respective total
8 moorage space that was available as of July 1, 1976, at the Ala
9 Wai and Keehi boat harbors. [~~Notwithstanding the purposes of~~
10 ~~small boat harbors, moorage for commercial vessels and~~
11 ~~commercial vessel activities is not permitted in the Ala Wai and~~
12 ~~Keehi boat harbors; provided that commercial catamarans, for~~
13 ~~which valid permits or registration certificates have been~~
14 ~~issued by the department which allow the catamarans to operate~~
15 ~~upon Waikiki shore waters for hire, may be permitted to moor in~~
16 ~~Ala Wai boat harbor at facilities leased for commercial~~
17 ~~purposes.] The total number of valid commercial use permits~~

1 which may be issued for vessels assigned mooring in Ala Wai boat
2 harbor shall not exceed fifteen per cent of the total berths and
3 shall not exceed thirty-five per cent of the total berths at the
4 Keehi boat harbor.

5 The department shall allow a sole proprietor of a catamaran
6 operating with a valid commercial [~~registration certificate~~] use
7 permit issued by the department for a commercial catamaran to
8 land its commercial catamaran on Waikiki beach and to operate
9 upon Waikiki shore waters for hire, to transfer the ownership of
10 the vessel from personal ownership to corporate or other
11 business ownership without terminating the right to operate
12 under the commercial [~~registration certificate.~~] use permit.
13 The existing commercial [~~registration certificate~~] use permit
14 shall be reissued in a timely manner in the name of the
15 transferee corporation or other business entity. No commercial
16 [~~registration~~] use permit issued to an owner of a commercial
17 catamaran operating in the Waikiki area shall be denied or
18 revoked without a prior hearing held in accordance with chapter
19 91."

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

1 "(c) The permittee shall pay moorage fees to the department
2 for the use permit that shall be based on, but not limited to,
3 the use of the vessel, its effect on the harbor, use of
4 facilities, and the cost of administering this mooring program;
5 and, furthermore:

6 (1) Moorage fees shall be established by the department
7 ~~[and shall be higher for nonresidents];~~

8 (2) An application fee shall be collected when applying for
9 moorage in state small boat harbors and shall
10 thereafter be collected annually when the application
11 is renewed. The application fee shall be:

12 (A) Set by the department; and

13 (B) Not less than \$100 for nonresidents;

14 (3) If a recreational vessel is used as a place of
15 principal habitation, the permittee shall pay, in
16 ~~[addition to]~~ lieu of the moorage fee, a liveaboard fee
17 that shall be calculated at a rate of:

18 (A) ~~[\$5.20 a foot of vessel length a month]~~ Two times
19 the moorage fee assessed for a recreational vessel
20 of the same size per month where commercial vessel
21 activities are permitted, or three times the
22 moorage fee assessed for a recreational vessel of

1 the same size per month in an exclusive,
2 noncommercial harbor, if the permittee is a state
3 resident; and

4 (B) [~~\$7.80 a foot of vessel length a month~~] Two and
5 one-half times the moorage fee assessed for a
6 recreational vessel of the same size per month
7 where commercial vessel activities are permitted,
8 or three and one-half times the moorage fee
9 assessed for a recreational vessel of the same
10 size per month in an exclusive, noncommercial
11 harbor, if the 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 January 1
16 of each year; and

17 (4) If a vessel is used for commercial purposes from its
18 permitted mooring, the permittee shall pay, in lieu of
19 the moorage and liveaboard fee, a fee based on three
20 per cent of the gross revenues derived from the use of
21 the vessel or two times the moorage fee assessed for a

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1 recreational vessel of the same size, whichever is
2 greater."

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

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

6
7 INTRODUCED BY: 

8 BY REQUEST

Report Title:

Commercial Use Permits and Liveaboard Fees; State Small Boat Harbors

Description:

Authorizes moorage for commercial vessels and commercial vessel activities in the Ala Wai and Keehi Boat Harbors and adjusts fees for permittees of vessels that are used for a place of principal habitation in state small boat harbors.

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO VESSELS AT ALA WAI AND KEEHI BOAT HARBORS.

PURPOSE: To authorize moorage for commercial vessels and commercial vessel activities in the Ala Wai and Keehi Boat Harbors; and to adjust fees for permittees of vessels that are used for a place of principal habitation in state small boat harbors.

MEANS: Amend sections 200-9(b) and 200-10(c), Hawaii Revised Statutes (HRS).

JUSTIFICATION: The economic downturn and subsequent budget reductions have detrimentally affected the capital improvement programs and operations of various divisions in the Department, jeopardizing much-needed improvements and repairs to existing facilities. The Department simply cannot continue to operate public recreational places with limited support. Unless something is done differently, the Department will be condemning harbor slips, piers, and ramps.

As presently written, section 200-9(b), HRS, does not authorize commercial vessel mooring or commercial vessel activity to take place in the Ala Wai and Keehi Boat Harbors. Commercial activity within the state small boat harbors increases vessel activity which has a positive effect on all marine-related business and results in the Department's ability to increase revenues. When taken into context, these harbors are in surrounding areas of commerce. The Ala Wai Boat Harbor is located at the beginning of Waikiki and the Keehi Boat Harbor lies in between the Honolulu International Airport and Honolulu Harbor. Allowing moorage for commercial vessels and commercial vessel activities in the Ala Wai and Keehi Boat

Harbors would be consistent with existing commercialism in their respective vicinities.

Currently, moorage fees do not cover costs of operating and maintenance of small boat harbors. While the Department recently raised certain boating fees by way of administrative rules, liveaboard fees, set in statutes, have not changed since 1992. The wear and tear of the State's small boat harbors at Ala Wai and Keehi, in part, generated by persons using their vessels in the harbors as their principal domicile, necessitates the raising of additional fees.

The Department presently does not assess any of its mooring permittees, who use state small boat harbors as their principal place of habitation, additional fees to address utility (i.e., water and electricity) and common area maintenance expenses. As these permittees are the direct beneficiaries of small boat harbor amenities, assessing fees to cover utility and common area maintenance expenses would be reasonable and in line with similar fees that are assessed on a resident under a condominium property regime, for example.

This bill would clarify the total number of valid commercial use permits that may be issued for vessels assigned mooring in the Ala Wai Boat Harbor shall not exceed fifteen percent of total berths and shall not exceed thirty-five percent of the total berths at the Keehi Boat Harbor. This bill also clarifies that the Department shall assess a permittee, who uses a vessel as a place of principal habitation in a state small boat harbor, in lieu of a moorage fee:

- (1) A fee two times the moorage fee assessed for a recreational vessel of the same size per month where commercial vessels activities are

permitted if the permittee is a state resident;

- (2) A fee three times the moorage fee assessed for a recreational vessel of the same size per month in an exclusive, noncommercial harbor if the permittee is a state resident;
- (3) A fee two and one-half times the moorage fee assessed for a recreational vessel of the same size per month where commercial vessels activities are permitted if the permittee is a nonresident; and
- (4) A fee three and one-half times the moorage fee assessed for a recreational vessel of the same size per month in an exclusive, noncommercial harbor if the permittee is a nonresident.

Impact on the public: Safer recreational facilities, ultimately, enhanced recreational facilities and would assess fee rates to more realistic figures required for proper small boat harbor operations and maintenance.

Impact on the department and other agencies: Would provide additional revenues that would be put toward further improving and modernizing boating operations and facilities.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 801.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.