

JAN 19 2018

A BILL FOR AN ACT

RELATING TO STATE SMALL BOAT HARBORS.

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

1 SECTION 1. Section 200-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§200-10 Permits and fees for state small boat harbors;
4 permit transfers. (a) No person shall moor a vessel in a state
5 small boat harbor without:

6 (1) First obtaining a use permit from the department; and

7 (2) Being the owner of the vessel.

8 (b) In order to obtain a permit or a permit renewal, the
9 owner of a vessel shall provide, at the owner's own expense:

10 (1) A marine surveyor's inspection or a vessel inspection
11 by the department, no more than two years old,
12 certifying that the vessel has been inspected and
13 fulfills the requirements set by the department;

14 (2) Documentation that the person is the owner of the
15 vessel. The documentation shall meet requirements
16 established by the department; and



1 (3) Satisfactory proof that the person has attained the
2 age of eighteen years prior to obtaining a permit or
3 being placed on the waitlist for a permit.

4 (c) ~~[The]~~ For use permits at state small boat harbors
5 other than the Ala Wai boat harbor, the permittee shall pay
6 moorage fees to the department for the use permit that shall be
7 based on, but not limited to the use of the vessel, its effect
8 on the harbor, use of facilities, and the cost of administering
9 this mooring program; and, furthermore:

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

20 (A) Schedule A shall include existing mooring
21 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 a tariff 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 application fee shall be:

(A) Set by the department; and

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



1 (4) If a recreational vessel is used as a place of
2 principal habitation, the permittee shall pay, in
3 addition to the moorage fee, a liveaboard fee that
4 shall be calculated at a rate of:

5 (A) \$5.20 [a] per foot of vessel length [a] per month
6 if the permittee is a state resident; and

7 (B) \$7.80 [a] per foot of vessel length [a] per month
8 if the permittee is a nonresident;

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

14 (5) If a vessel is used for commercial purposes from its
15 permitted mooring, the permittee shall pay, in lieu of
16 the moorage and liveaboard fee, a fee based on three
17 per cent of the gross revenues derived from the use of
18 the vessel or two times the moorage fee assessed for a
19 recreational vessel of the same size, whichever is
20 greater; and



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

(d) For use permits at the Ala Wai boat harbor, all use permits shall be obtained at public auction; provided that adequate public notice of the public auction shall be given. The public notice shall:

(1) Be provided at least once statewide and once in the city and county of Honolulu; and

(2) Include the time and place of the public auction, moorage location and description, specific use for which the moorage is intended, if any, and upset price, if any.

All public auctions for use permits at the Ala Wai boat harbor shall be held at the Ala Wai boat harbor and be conducted by the chairperson or any authorized employee of the department under the direction of the board, all of whom shall perform this service without additional compensation. Any use permit obtained pursuant to this subsection shall be valid for two years.



1 [~~(d)~~] (e) The department shall not renew or issue a permit
2 to a person who is not the owner of the vessel [~~which~~] that is
3 moored or [~~which~~] that the person desires to moor in a state
4 small boat harbor. No use permit may be transferred unless
5 specifically provided by law. Any individual who is an owner of
6 a vessel used for commercial purposes, including commercial
7 fishing as a principal means of livelihood, and possesses a
8 valid mooring permit or commercial permit, or both, in
9 accordance with the rules adopted by the chairperson pursuant to
10 chapter 91, may transfer ownership of the vessel from personal
11 ownership to corporate or other business ownership without
12 terminating the right to moor or operate the vessel under the
13 permit or permits. The existing permit or permits shall be
14 reissued in the name of the transferee corporation or other
15 business entity.

16 [~~(e)~~] (f) For the purposes of this section, "person" means
17 any individual, firm, partnership, corporation, trust,
18 association, joint venture, organization, institution, or any
19 other legal entity, and "owner" includes the legal owner of a
20 vessel where there is no security interest held by anyone on the
21 vessel, a buyer under a purchase money security interest, a



1 debtor under any security interest, a demise charterer of a
2 vessel, or a lessee or charterer of a vessel under a lease or
3 charter which provides the lessee or charterer with exclusive
4 right to possession of the vessel to the exclusion of the lessor
5 or the person from whom the vessel is chartered. "Controlled
6 group" means parent-subsidary corporations, brother-sister
7 corporations, or constructive owner. "Transfer" includes any
8 change in control, by whatever means, of any entity that owns or
9 controls, directly or indirectly, a use permit. No permittee
10 shall be allowed to moor a leased vessel in a berth unless the
11 terms of the lease are set at fair market value. A "legal
12 owner" includes a person who holds unencumbered title to a
13 vessel or is a secured party under a security interest in the
14 vessel. An owner who is issued a permit to moor a vessel in a
15 state small boat harbor shall notify the department in writing
16 of a transfer of interest or possession in the vessel within
17 seven days of transfer.

18 ~~[(f)]~~ (g) Any person who owns an interest in a corporation
19 or other business entity or is part of a controlled group
20 possessing a valid commercial permit issued by the department,
21 in accordance with rules adopted by the chairperson pursuant to



1 chapter 91, may transfer any or all stock or other interest to
2 another person without terminating the right of the corporation
3 or business entity to retain or renew its commercial permit or
4 any other permit issued to it by the department; provided that:

5 (1) The corporation or business entity has been engaged in
6 the same commercial vessel activity, as defined in
7 section 200-9, for a minimum of one year;

8 (2) The seller shall pay the department a business
9 transfer fee based on the [~~passenger-carrying~~]
10 passenger carrying capacity of the vessels owned or
11 operated by the corporation or business entity as
12 provided by rules adopted by the chairperson pursuant
13 to chapter 91, except for transfers of stock or
14 interest in a corporation or other business entity
15 between spouses or first-generation lineal
16 descendants; and

17 (3) In the case of a controlled group, the transferee
18 shall retain eighty per cent control of the
19 transferor.



1 Any person possessing a commercial permit shall be required to
2 meet minimum revenue standards[7] as a condition of retaining or
3 renewing the commercial permit.

4 When an application for renewal of a commercial permit is
5 made at least sixty days prior to expiration of the commercial
6 permit, the department shall review the application and, within
7 thirty days of receipt of the application, shall renew the
8 permit or notify the applicant that the application is
9 incomplete or cannot be renewed and explain any reasons for
10 nonrenewal. Within thirty days of receipt of the applicant's
11 amended application, the department shall either renew the
12 permit or notify the applicant that the permit will not be
13 renewed.

14 If the holder of a commercial permit fails to timely obtain
15 renewal of a commercial permit, the holder of the permit shall
16 automatically be granted a thirty-day extension from the date of
17 the existing permit's expiration to obtain a permit renewal.


18 [~~g~~] (h) The department may designate moorage space
19 within state small boat harbors to accommodate commercial
20 fishing vessels and transient vessels.



1 [~~(h)~~] (i) All revenues from the foregoing operations shall
2 be deposited in the boating special fund."

3 SECTION 2. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 3. This Act shall take effect on August 1, 2018.

6
INTRODUCED BY: 



S.B. NO. 2286

Report Title:

State Small Boat Harbors; Ala Wai Boat Harbor; Use Permits;
Public Auction

Description:

Requires all use permits at the Ala Wai boat harbor to be obtained at public auction. Requires that public notice of the public auction for a use permit at the Ala Wai boat harbor be given and include certain information. Requires all public auctions for use permits at the Ala Wai boat harbor to be conducted by the chairperson of the board of land and natural resources or an authorized employee of the department of land and natural resources under the direction of the board of land and natural resources without additional compensation. Takes effect on 8/1/2018.

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