

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO STATE SMALL BOAT HARBOR FEES.

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

1           SECTION 1. The legislature finds that the department of  
2 land and natural resources (DLNR), division of boating and ocean  
3 recreation (DOBOR) is responsible for operating and maintaining  
4 dozens of facilities and installations for the boating public in  
5 addition to regulating ocean recreation activities in state  
6 ocean waters from the shoreline to three nautical miles from  
7 shore.

8           DOBOR is responsible for operating and maintaining  
9 seventeen small boat harbors statewide. The small boat harbor  
10 program was transferred from the department of transportation to  
11 DLNR in 1991, where DLNR received the then-\$300,000,000 backlog  
12 of deferred maintenance projects. Adjusted for inflation, the  
13 deferred maintenance balance is equivalent to approximately  
14 \$570,000,000 in 2021 dollars. The current deferred maintenance  
15 balance of the State small boat harbor program is approximately  
16 \$310,000,000, a roughly forty-six per cent decrease since 1991,  
17 when adjusted for inflation. While DLNR has been able to



1 incrementally decrease the deferred maintenance balance,  
2 inflation and rising costs have outpaced, and continue to  
3 outpace, DOBOR's revenue generation capabilities as well as the  
4 legislature's ability to fund maintenance projects through  
5 capital funds. The coronavirus disease 2019 (COVID-19) pandemic  
6 has exacerbated economic issues statewide, and the boating and  
7 ocean recreation program has been affected just as much as other  
8 government programs.

9 The small boat harbor program, as a whole, operates at a  
10 loss, with only a few small boat harbors generating revenue from  
11 mooring fees sufficient to offset costs. The legislature finds  
12 that the inability to collect adequate small boat harbor fees is  
13 one of the factors preventing DOBOR from generating sufficient  
14 revenue. Continuing inadequate revenue generation will lead to  
15 a reduction in services offered by DOBOR, increased delays in  
16 addressing maintenance needs at small boat harbors, and  
17 potential inability to maintain clean and sanitary facilities  
18 for the public.

19 The legislature further finds that public health and safety  
20 are at risk if the small boat harbor program cannot increase its  
21 revenues. Enforcement patrols are necessary to reduce criminal



1 activity and provide regular police presence in DOBOR  
2 facilities.

3 The legislature recognizes that improved revenue generating  
4 ability will help DOBOR better maintain and repair small boat  
5 harbors, as well as fund enforcement efforts through the DLNR  
6 division of conservation and resources enforcement. Therefore,  
7 the purpose of this Act is to require DOBOR to set its small  
8 boat harbor mooring fees at fair market value, as determined by  
9 a state-licensed appraiser, and to allow DOBOR flexibility in  
10 charging commercial ocean operation fees.

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

13 "(c) The permittee shall pay moorage fees to the  
14 department for the use permit that shall be based on but not  
15 limited to the use of the vessel, its effect on the harbor, use  
16 of facilities, and the cost of administering [~~this~~] the mooring  
17 program; [~~and,~~] further[~~more~~]:

18 (1) Except for commercial maritime activities where there  
19 is a tariff established by the department of  
20 transportation, moorage fees shall be established by  
21 appraisal by a state-licensed appraiser approved by



1 the department [~~and shall be higher for nonresidents~~  
2 ~~than for residents. The moorage fees shall be set by~~  
3 ~~appraisal categories schedule A and schedule B, to be~~  
4 ~~determined by the department, and may be increased~~  
5 ~~annually by the department, to reflect a cost of~~  
6 ~~living index increase; provided that:~~

7 ~~(A) Schedule A shall include existing mooring~~  
8 ~~permittees; and~~

9 ~~(B) Schedule B shall apply to all new mooring~~  
10 ~~applicants and transient slips on or after July~~  
11 ~~1, 2011;~~

12 ~~provided further that schedule A rates shall be~~  
13 ~~increased by the same amount each year so that~~  
14 ~~schedule A rates equal schedule B rates by July 1,~~  
15 ~~2014];~~

16 (2) For commercial maritime activities where there is a  
17 tariff established by the harbors division of the  
18 department of transportation, the department may adopt  
19 the published tariff of the harbors division of the  
20 department of transportation or establish the fee by



1 appraisal by a state-licensed appraiser approved by  
2 the department;

3 (3) An application fee shall be collected when applying  
4 for moorage in state small boat harbors and shall  
5 thereafter be collected annually when the application  
6 is renewed. The application fee shall be ~~[-~~  
7 ~~(A) Set] set by the department; [and~~  
8 ~~(B) Not less than \$100 for nonresidents,]~~

9 (4) If a recreational vessel is used as a place of  
10 principal habitation, the permittee shall pay, in  
11 ~~[addition to]~~ in lieu of the moorage fee required by  
12 paragraph 1, a monthly liveaboard fee that shall be  
13 ~~[calculated at a rate of:~~  
14 ~~(A) \$5.20 a foot of vessel length a month if the~~  
15 ~~permittee is a state resident; and~~  
16 ~~(B) \$7.80 a foot of vessel length a month if the~~  
17 ~~permittee is a nonresident;~~  
18 ~~provided that the liveaboard fees established by this~~  
19 ~~paragraph may be increased by the department at the~~  
20 ~~rate of the annual cost of living index, but not more~~  
21 ~~than five per cent in any one year, beginning July 1~~



- 1           ~~of each year;~~ two times the moorage fee that would be  
2           assessed for a vessel of the same size;
- 3           (5) If a vessel is used for commercial purposes from its  
4           permitted mooring, the permittee shall pay, in lieu of  
5           the moorage [~~and liveaboard~~] fee required by paragraph  
6           (1), a monthly fee that shall be the greater of:  
7           ~~[based on]~~
- 8           (A) Three per cent of the gross revenues derived from  
9           the use of the vessel; or [two]
- 10           (B) Three dollars per passenger carried for hire; or  
11           (C) Two times the moorage fee that would be assessed  
12           for a recreational vessel of the same size[-  
13           whichever is greater; and] ;
- 14           (6) The department is authorized to assess and collect  
15           utility fees, including electrical and water charges,  
16           and common-area maintenance fees in small boat  
17           harbors [-]; and
- 18           (7) All fees established by appraisal pursuant to this  
19           subsection shall be set at fair market value."



# S.B. NO. 795

1           SECTION 3. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

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

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

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INTRODUCED BY: \_\_\_\_\_



# S.B. NO. 795

**Report Title:**

Mooring Fees; Liveaboard Fees; Commercial Fees; Appraisal; State Small Boat Harbors

**Description:**

Amends the various fees the Department of Land and Natural Resources may charge for the usage of state small boat harbors. Amends how those fees are applied.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

