
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, when DLNR received the small boat harbor program,
12 which had \$300,000,000 worth of backlog of deferred maintenance
13 projects. Adjusted for inflation, the deferred maintenance
14 balance is equivalent to approximately \$570,000,000 in 2021.
15 The current deferred maintenance balance of the State small boat
16 harbor program is approximately \$310,000,000, a roughly forty-
17 six per cent decrease since 1991, when adjusted for inflation.



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

9 Generally, the small boat harbor program operates at a
10 loss, with only a few small boat harbors generating revenue from
11 mooring fees sufficient to offset costs. The legislature notes
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 Additionally, the legislature recognizes that improving
4 DOBOR's ability to generate revenue will help DOBOR better
5 maintain and repair small boat harbors, as well as fund
6 enforcement efforts through the DLNR division of conservation
7 and resources enforcement. Therefore, the purpose of this Act
8 is to require DOBOR to set its small boat harbor mooring fees at
9 fair market value, as determined by a state-licensed appraiser,
10 and to allow DOBOR flexibility in charging commercial ocean
11 operation fees.

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

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

19 (1) Except for commercial maritime activities where there
20 is a tariff established by the department of
21 transportation, moorage fees shall be established by



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

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

10 ~~(B) Schedule B shall apply to all new mooring~~
 11 ~~applicants and transient slips on or after July~~
 12 ~~1, 2011;~~

13 ~~provided further that schedule A rates shall be~~
 14 ~~increased by the same amount each year so that~~
 15 ~~schedule A rates equal schedule B rates by July 1,~~
 16 ~~2014];~~

17 (2) For commercial maritime activities where there is a
 18 tariff established by the harbors division of the
 19 department of transportation, the department may adopt
 20 the published tariff of the harbors division of the
 21 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
6 paragraph (1), a monthly fee [~~based on~~] that shall be
7 the greater of:
- 8 (A) Three per cent of the gross revenues derived from
9 the use of the [~~vessel, or two~~] vessel;
- 10 (B) \$1.50 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[~~7~~
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 [~~7~~]; and
- 18 (7) All fees established by appraisal pursuant to this
19 subsection shall be set at fair market value."



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.



S.B. NO. 795
S.D. 1

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 and amends how those fees are applied. (SD1)

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