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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' division of boating and ocean  
3 recreation is responsible for operating and maintaining dozens  
4 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           The division of boating and ocean recreation is responsible  
9 for operating and maintaining seventeen small boat harbors  
10 statewide. The small boat harbor program was transferred from  
11 the department of transportation to the department of land and  
12 natural resources in 1991, when the department of land and  
13 natural resources received the small boat harbor program, which  
14 had a \$300,000,000 backlog of deferred maintenance projects.  
15 Adjusted for inflation, the deferred maintenance balance is  
16 equivalent to approximately \$570,000,000 in 2021. The current  
17 deferred maintenance balance of the state small boat harbor



1 program is approximately \$310,000,000, a roughly forty-six per  
2 cent decrease since 1991, when adjusted for inflation. While  
3 the department of land and natural resources has been able to  
4 incrementally decrease the deferred maintenance balance,  
5 inflation and rising costs have outpaced, and continue to  
6 outpace, the division of boating and ocean recreation's revenue  
7 generation capabilities and the legislature's ability to fund  
8 maintenance projects through capital funds. The legislature  
9 recognizes that the coronavirus disease 2019 (COVID-19) pandemic  
10 has exacerbated economic issues statewide, affecting the boating  
11 and ocean recreation program just as much as other government  
12 programs.

13 Generally, the small boat harbor program operates at a  
14 loss, with only a few small boat harbors generating revenue from  
15 mooring fees sufficient to offset costs. The legislature notes  
16 that the inability to collect adequate small boat harbor fees is  
17 one of the factors preventing the division of boating and ocean  
18 recreation from generating sufficient revenue. Continuing  
19 inadequate revenue generation will lead to a reduction in  
20 services offered by the division of boating and ocean  
21 recreation, increased delays in addressing maintenance needs at



1 small boat harbors, and a potential inability to maintain clean  
2 and sanitary facilities for the public.

3 The legislature further finds that public health and safety  
4 are at risk if the small boat harbor program cannot increase  
5 revenues. Enforcement patrols are necessary to reduce criminal  
6 activity and provide regular police presence in division of  
7 boating and ocean recreation facilities.

8 Additionally, the legislature recognizes that improving the  
9 division of boating and ocean recreation's ability to generate  
10 revenue will help the division to better maintain and repair  
11 small boat harbors and fund enforcement efforts through the  
12 department of land and natural resources' division of  
13 conservation and resources enforcement.

14 Accordingly, the purpose of this Act is to:

- 15 (1) Require the division of boating and ocean recreation  
16 to set its small boat harbor mooring fees at fair  
17 market value, as determined by a state-licensed  
18 appraiser; and
- 19 (2) Allow the division of boating and ocean recreation  
20 flexibility in charging commercial ocean operation  
21 fees.



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

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

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

18 ~~(A) Schedule A shall include existing mooring~~  
19 ~~permittees; and~~



1       ~~(B) Schedule B shall apply to all new mooring~~  
2               ~~applicants and transient slips on or after July~~  
3               ~~1, 2011;~~

4       ~~provided further that schedule A rates shall be~~  
5       ~~increased by the same amount each year so that~~  
6       ~~schedule A rates equal schedule B rates by July 1,~~  
7       ~~2014];~~

8       (2) For commercial maritime activities [~~where there is~~] in  
9       which a tariff is established by the harbors division  
10       of the department of transportation, the department  
11       may adopt the published tariff of the harbors division  
12       of the department of transportation or establish the  
13       fee by appraisal by a state-licensed appraiser  
14       approved by the department;

15       (3) An application fee shall be collected when applying  
16       for moorage in state small boat harbors and shall  
17       thereafter be collected annually when the application  
18       is renewed[~~—The~~]; provided that the application fee  
19       shall be[~~+~~

20       ~~(A) Set~~] set by the department; [~~and~~

21       ~~(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]~~ in lieu of the moorage fee~~[,]~~ required  
4           by paragraph (1), a monthly liveaboard fee that shall  
5           be ~~[calculated at a rate of:~~  
6           ~~(A) \$5.20 a foot of vessel length a month if the~~  
7           ~~permittee is a state resident; and~~  
8           ~~(B) \$7.80 a foot of vessel length a month if the~~  
9           ~~permittee is a nonresident;~~  
10          ~~provided that the liveaboard fees established by this~~  
11          ~~paragraph may be increased by the department at the~~  
12          ~~rate of the annual cost of living index, but not more~~  
13          ~~than five per cent in any one year, beginning July 1~~  
14          ~~of each year,]~~ two times the moorage fee that would  
15          otherwise be assessed for a vessel of the same size;  
16          (5) If a vessel is used for commercial purposes from ~~[its]~~  
17          the vessel's permitted mooring, the permittee shall  
18          pay, in lieu of the moorage ~~[and liveaboard]~~ fee~~[,]~~  
19          required by paragraph (1), a monthly fee ~~[based on~~  
20          ~~three]~~ that shall be the greater of:



1           (A) Three per cent of the gross revenues derived from  
2           the use of the vessel; [~~or two~~]

3           (B) \$1.50 per passenger carried for hire; or

4           (C) Two times the moorage fee that would otherwise be  
5           assessed for a recreational vessel of the same  
6           size[~~, whichever is greater, and~~];

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

11          (7) All fees established by appraisal pursuant to this  
12          subsection shall be set at fair market value."

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

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

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



**Report Title:**

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

**Description:**

Changes the criteria for calculating the various fees that the department of land and natural resources may charge for the usage of state small boat harbors, including requiring that certain state small boat harbor fees be set at fair market value, and how certain fees are applied. (SD2)

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