

## ACT 48

H. B. NO. 1388-70

A Bill for an Act Relating to Disposition of Abandoned Vessels.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1. Disposition by director of transportation of certain abandoned vessels.** Any vessel which (1) has been left unattended for a continuous period of more than 30 days and (2) is within the waters of the State or on public property, or is on private property without authorization of the owner or occupant of the property may be caused by the director of transportation to be taken into custody and disposed of pursuant to this Act.

**SECTION 2. Notice to owner.** Upon taking custody of any such vessel, a written notice shall immediately be posted on the vessel and a duplicate original thereof sent by registered or certified mail, with a return receipt, to the registered owner of the vessel at his last known address and to all lien holders shown on the records of the department of transportation. The notice shall contain a brief description of the vessel, the location of custody, and the intended disposition of the vessel if not repossessed within twenty days after the mailing of the notice. A notice need not be sent to any purported owner or any other person whose interest in the vessel is not recorded with the department of transportation.

**SECTION 3. Public auction.** If the vessel is not repossessed within twenty days after the mailing of the notice, the vessel shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation; provided that the public auction shall not be held less than five days after the publication of the advertisement. Where no bid is received, the vessel may be sold by negotiation, disposed of as junk or donated to any governmental agency.

**SECTION 4. Possession by interested party.** Any person having an interest in the vessel may take possession of the vessel prior to the date of public auction upon payment to the department of transportation of all harbor use fees, towing, handling, storage, appraisal, advertising and any other expenses incurred by the department in connection with the vessel. If the person taking possession of the vessel is not the registered owner, he shall, prior to taking possession of the vessel, pay the foregoing expenses and post adequate security

## ACT 48

which shall not exceed the value of the vessel. Such security, if not forfeited, shall be returned two years after receipt.

**SECTION 5. When public auction not required.** Public auction shall not be required when the appraised value of any vessel as determined by an independent appraiser who has had at least one year of experience in the sale or purchase of vessels, is less than \$100.00. Upon that determination and after public advertisement has been made once in a newspaper of general circulation, the director of transportation may sell the vessel by negotiation, dispose of it as junk or donate the vessel to any governmental agency.

**SECTION 6. Effect of sale.** The transfer of interest by sale hereunder shall be evidenced by a bill of sale from the department of transportation, shall be considered a transfer by operation of law and shall be governed by provisions applicable thereto.

**SECTION 7. Disposition of proceeds.** The department of transportation shall retain out of the proceeds of the sale of a vessel the mooring or other harbor use fees, the expenses of the auction and any other expense incurred by the department in taking the vessel into custody. The balance, if any, shall be deposited into the general fund of the State. The owner may recover any such balance from the State only if he files a claim therefor with the department of budget and finance within one year after the execution of the bill of sale. A lien holder shall receive priority of payment from the balance to the extent of his lien on the vessel. The department of transportation may file a claim within the same period against the registered owner or person with an unrecorded interest to the extent that mooring and other harbor use fees and the expenses of sale exceed the proceeds of sale.

**SECTION 8.** This Act shall take effect upon its approval.  
(Approved June 5, 1970.)