

ACT 333

H.B. NO. 1815-86

A Bill for an Act Relating to Harbors.

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

SECTION 1. The legislature finds that the statutory provision governing the liveaboard fee assessed and collected by the state department of transportation for the privilege of using a recreational vessel moored in a state small boat harbor as a place of principal habitation was enacted in 1976 based on an “arbitrary” recommendation by the legislative auditor that the liveaboard fee be based on a multiple of the mooring fee which is charged.

The legislature also finds that the increase in mooring fees proposed by the state department of transportation in amendments to the Hawaii administrative rules, title 19, department of transportation, subtitle 3 harbors division, part 3 small boat harbors, has a detrimental compounding effect upon the liveaboard fee, which by statute is linked to the mooring fee. As a result of the proposed mooring fee increases, the liveaboard fee is increased beyond a reasonable and justifiable limit and bears no substantive relation to the benefits received by liveaboards. Accordingly, the purpose of this Act is to establish a justifiable rate and reasonable manner of assessing liveaboard fees within the State’s small boat harbors. It is the intent of the legislature that the method of assessing this fee be based on a factor or factors other than the mooring fee.

SECTION 2. Section 266-21.1, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The permittee shall pay moorage fees to the department for the use permit which shall be based on, but not limited to, the use of the vessel, its effect on the harbor, and use of facilities; and, furthermore:

- (1) Moorage fees shall be established by the department and shall be higher for non-residents.
- (2) 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. It shall be:
 - (A) Set by the department; and
 - (B) Not less than \$100 for non-residents.
- (3) If a recreational vessel is used as a place of principal habitation, the permittee shall pay, in addition to the moorage fee, a liveaboard fee which will be:
 - (A) [Not less than two times the moorage fee] \$5.20 a foot of vessel length a month if the permittee is a state resident; and
 - (B) [Not less than three times the moorage fee] \$7.80 a foot of vessel length a month if the permittee is a nonresident[.]; provided that the liveaboard fees established by this subsection may be increased by the department at the rate of the annual cost of living index, but not more than five per cent in any one year, beginning January 1 of each year following the enactment of this Act.
- (4) If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay, in lieu of the moorage and liveaboard fees, a fee based on a percentage of the gross revenues derived from the vessel.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1986.)