

ACT 99

H.B. NO. 39

A Bill for an Act Relating to Landing and Dockage Fees.

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

SECTION 1. Section 261-7, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The department may fix and regulate, from time to time, reasonable landing fees for aircraft, including the imposition of landing surcharges or differential landing fees, and other reasonable charges for the use and enjoyment of the airports and the services and facilities furnished by the department in connection therewith, including the establishment of a statewide system of airports landing fees, a statewide system of airports support charges, and joint use charges for the use of space shared by users, which fees and charges may vary among different classes of users such as foreign carriers, domestic carriers, inter-island carriers, air taxi operators, helicopters, and such other classes as may be determined by the director, for the purpose of meeting the expenditures of the statewide system of airports set forth in section 261-5(a), which includes expenditures for capital improvement projects approved by the legislature.

In setting airports rates and charges, including landing fees, the director may enter into contracts, leases, licenses, and other agreements with aeronautical users of the statewide system of airports containing such terms, conditions, and provisions as the director deems advisable.

If the director has not entered into contracts, leases, licenses, and other agreements with any or fewer than all of the aeronautical users of the statewide system of airports prior to the expiration of an existing contract, lease, license, or

agreement, the director shall set and impose rates, rentals, fees, and charges pursuant to this subsection without regard to the requirements of chapter 91; provided that a public informational hearing shall be held on the rates, rentals, fees, and charges.

The director shall develop rates, rentals, fees, and charges in accordance with a residual methodology so that the statewide system of airports shall be, and always remain, self-sustaining. The rates, rentals, fees, and charges shall be set at such levels as to produce revenues which, together with aviation fuel taxes, shall be at least sufficient to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds.

The director may develop and formulate methodology in setting the various rates, rentals, fees, and charges imposed and may determine usage of space, estimate landed weights, and apply such portion of nonaeronautical revenue deemed appropriate in determining the rates, rentals, fees, and charges applicable to aeronautical users of the statewide system of airports.

The rates, rentals, fees, and charges determined by the director in the manner set forth in this subsection shall be those charges payable by the aeronautical users for the periods immediately following the date of expiration of the existing contract, lease, license, or agreement. If fees are established pursuant to this section, the department shall prepare a detailed report on the circumstances and rates and charges that have been established, and shall submit the report to the legislature no later than twenty days prior to the convening of the next regular session.

If a schedule of rates, rentals, fees, and charges developed by the director in accordance with this section is projected by the department to produce revenues which, together with aviation fuel taxes, will be in excess of the amount required to meet the expenditures of the statewide system of airports set forth in section 261-5(a), including expenditures for capital improvement projects approved by the legislature, and to comply with covenants and agreements with holders of airport revenue bonds, the department shall submit the schedule of rates, rentals, fees, and charges to the legislature prior to the convening of the next regular session of the legislature. Within forty-five days after the convening of the regular session, the legislature may disapprove any schedule of rates, rentals, fees, and charges required to be submitted to it by this section by concurrent resolution. If no action is taken by the legislature within the forty-five day period the schedule of rates, rentals, fees, and charges shall be deemed approved. If the legislature disapproves the schedule within the forty-five day period, the director shall develop a new schedule of rates, rentals, fees, and charges in accordance with this section within seventy-five days of the disapproval. Pending the development of a new schedule of rates, rentals, fees, and charges, the schedule submitted to the legislature shall remain in force and effect.

Notwithstanding any other provision of law to the contrary, the department may waive landing fees and other aircraft charges established under this section at any airport owned or controlled by the State whenever:

- (1) The governor declares a state of emergency; and
- (2) The department determines that the waiver of landing fees and other charges for the aircraft is consistent with assisting in the delivery of humanitarian relief to disaster-stricken areas of the State.’

SECTION 2. Section 266-13, Hawaii Revised Statutes, is amended to read as follows:

“§266-13 Dockage. (a) All watercraft [lying]:

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- (1) Lying idle alongside any wharf, pier, bulkhead, quay, or landing belonging to or controlled by the State[, and all watercraft discharging];  
or
- (2) Discharging or receiving freight or passengers on or from any wharf, pier, bulkhead, quay, or landing[,] belonging to or controlled by the State, while made fast or lying alongside of the [same,] wharf, pier, bulkhead, quay, or landing;

shall pay to the department of transportation such rates of dockage as shall be fixed by the department.

(b) All watercraft that receive or discharge freight or passengers:

- (1) [from] From or upon any wharf, pier, bulkhead, quay, or landing, by means of boats, lighters, or otherwise, while lying at anchor or under steam in any bay, harbor, or roadstead[.]; or
- (2) [while] While lying in any slip or dock belonging to or controlled by the State, but not made fast to or lying alongside [of] any wharf, pier, bulkhead, quay, or landing[.];

shall pay such rates of dockage as shall be fixed by the department.

(c) Notwithstanding subsections (a) and (b), the department may waive dockage and other charges at any wharf, pier, bulkhead, quay, landing, slip, or dock belonging to or controlled by the State whenever:

- (1) The governor declares a state of emergency; and
- (2) The department determines that the waiver of dockage fees and other charges is consistent with assisting in the delivery of humanitarian relief to disaster-stricken areas of the State.

(d) Any watercraft [that leaves] leaving any [such] wharf, pier, bulkhead, quay, landing, slip, dock, basin, or waters belonging to or controlled by the State without paying [it] dockage and other charges, with intent to evade the payment thereof, shall be liable to pay double rates.’’

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 8, 1995.)