
A BILL FOR AN ACT

RELATING TO SMALL BOAT HARBORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The department of land and natural resources,
2 through its division of boating and ocean recreation, operates
3 and manages twenty-one harbors, fifty boat ramps, two thousand
4 one hundred twenty-two moorings and berths, and nineteen piers
5 spread throughout the various counties of the State. The
6 legislature finds that these ocean recreation facilities, in
7 light of the present demand, are in short supply and, in most
8 cases where they exist, are in dire need of long overdue repair
9 and maintenance. Some facilities are in such need of repair and
10 replacement that they cannot be used and pose public safety
11 hazards.

12 One of these facilities, the Ala Wai harbor, has been the
13 recipient of some recent badly needed repair and replacement of
14 floating docks; however, the need for further maintenance
15 remains unfulfilled. In spite of its needs, the Ala Wai harbor
16 includes certain assets within its facilities that are under-
17 used and, if properly developed, can potentially generate
18 revenues that can benefit not only its continued improvement and



1 maintenance but also benefit the rest of the facilities now
2 operated by the division of boating and ocean recreation.

3 In these times of economic malaise and with the State
4 facing a massive budget deficit over the next biennium, the
5 State cannot afford the huge loss in the valuable asset that a
6 further decline of the State's small boat harbors would pose.

7 The purpose of this Act is to:

- 8 (1) Allow the limited issuance of commercial use permits
9 for vessels with assigned moorings in Ala Wai and
10 Keehi harbors;
- 11 (2) Provide for future mooring fees to be established by
12 appraisal by a state-licensed appraiser and assigned a
13 schedule B rate, while existing mooring holders remain
14 in a schedule A class that shall equal schedule B
15 rates over a five-year period; and
- 16 (3) Direct the department of land and natural resources to
17 use the request for proposals process to enter into a
18 public-private partnership for the development of
19 portions of Ala Wai harbor facilities that are
20 presently under-used to maximize the revenue potential
21 from its facilities.



1 SECTION 2. Section 200-2.5, Hawaii Revised Statutes, is
2 amended by amending subsections (a) to (c) to read as follows:

3 "(a) Notwithstanding any law to the contrary, the board
4 may lease fast lands and submerged lands within an existing
5 state boating facility by public auction, a request for
6 proposals, or by direct negotiation pursuant to section 171-
7 59[7] and chapter 190D, for private development, management, and
8 operation. For the purpose of this section, the term "state
9 boating facility" means a state small boat harbor, launching
10 ramp, offshore mooring, pier, wharf, landing, or any other area
11 under the jurisdiction of the department pursuant to this
12 chapter.

13 (b) The permissible uses under any lease disposed of under
14 this section shall be consistent with the purpose for which the
15 land was set aside by the governor pursuant to section 171-11.
16 Permissible uses may include any use that will complement or
17 support the ocean recreation or maritime activities of state
18 boating facilities.

19 (c) Disposition of public lands of state boating
20 facilities constructed, maintained, and operated in accordance
21 with this chapter shall not exceed a maximum term of [~~fifty-~~
22 ~~five~~] sixty-five years."



1 SECTION 3. Section 200-9, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§200-9 Purpose and use of state small boat harbors.** (a)

4 State small boat harbors are constructed, maintained, and
5 operated for the purposes of:

- 6 (1) Recreational boating activities;
- 7 (2) Landing of fish; and
- 8 (3) Commercial vessel activities.

9 For the purpose of this section, "recreational boating
10 activities" means the ~~[utilization]~~ use of watercraft for
11 sports, hobbies, or pleasure, and "commercial vessel activities"
12 means the ~~[utilization]~~ use of vessels for activities or
13 services provided on a fee basis. To implement these purposes,
14 only vessels in good material and operating condition that are
15 regularly navigated beyond the confines of the small boat
16 harbor~~[r]~~ and ~~[which]~~ that are used for recreational activities,
17 the landing of fish, or commercial vessel activities shall be
18 permitted to moor, anchor, or berth at ~~[such]~~ a state small boat
19 harbor or use any of its facilities.

20 (b) Vessels used for purposes of recreational boating
21 activities ~~[which]~~ that are also the principal habitation of the
22 owners shall occupy no more than one hundred twenty-nine berths



1 at Ala Wai boat harbor and thirty-five berths at Keehi boat
2 harbor, which is equal to fifteen per cent of the respective
3 total moorage space that was available as of July 1, 1976, at
4 the Ala Wai and Keehi boat harbors. [~~Notwithstanding the~~
5 ~~purposes of small boat harbors, moorage for commercial vessels~~
6 ~~and commercial vessel activities is not permitted in the Ala Wai~~
7 ~~and Keehi boat harbors; provided that]~~

8 (c) The total number of valid commercial use permits that
9 may be issued for vessels assigned mooring in Ala Wai boat
10 harbor shall not exceed fifteen per cent of the total berths and
11 shall not exceed thirty-five per cent of the total berths at the
12 Keehi boat harbor; provided that at the Ala Wai boat harbor,
13 vessels issued commercial use permits shall:

14 (1) Not exceed sixty-five feet in length;

15 (2) Occupy not more than fifty-six berths located along
16 the row of berths furthest mauka or adjacent to
17 Holomua street, with the remainder located throughout
18 the Ala Wai boat harbor, with a priority assigned to
19 row seven hundred and row eight hundred;

20 (3) Be phased-in in a manner that does not displace any
21 existing recreational boater or existing catamaran
22 operator; and



1 (4) Include commercial catamarans, for which valid
2 commercial use permits or existing registration
3 certificates have been issued by the department
4 ~~[which]~~ that allow the catamarans to operate upon
5 Waikiki shore waters for hire [~~may be permitted to~~
6 ~~moor in Ala Wai boat harbor at facilities leased for~~
7 ~~commercial purposes~~].

8 The department shall allow a sole proprietor of a catamaran
9 operating with a valid commercial use permit or existing
10 registration certificate, issued by the department, for a
11 commercial catamaran to land its commercial catamaran on Waikiki
12 beach and to operate upon Waikiki shore waters for hire, to
13 transfer the ownership of the vessel from personal ownership to
14 corporate or other business ownership without terminating the
15 right to operate under the commercial use permit or existing
16 registration certificate. The existing commercial use permit or
17 existing registration certificate shall be reissued in a timely
18 manner in the name of the transferee corporation or other
19 business entity. No valid commercial use permit or existing
20 registration certificate issued to an owner of a commercial
21 catamaran operating in the Waikiki area shall be denied or



1 revoked without a prior hearing held in accordance with chapter
2 91.

3 [~~(e)~~] (d) Notwithstanding any limitations on commercial
4 permits for Maui county small boat facilities, vessels engaging
5 in inter-island ferry service within Maui county shall be
6 afforded preferential consideration for ferry landings,
7 including the issuance of a commercial operating permit and the
8 waiver of any applicable fees, at Maui county small boat
9 facilities; provided that:

10 (1) The vessel operator has been issued a certificate of
11 public convenience and necessity for the purpose of
12 engaging in inter-island ferry service that includes a
13 route within Maui county;

14 (2) The design and performance characteristics of the
15 vessel will permit safe navigation within the harbor
16 entrance channel and safe docking within Maui county
17 small boat facilities;

18 (3) The vessel operations will not result in unreasonable
19 interference with the use of Maui county small boat
20 facilities by other vessels; and

21 (4) All preferential consideration and waivers, including
22 any commercial permits issued under this section,



1 shall cease upon the vessel operator's termination of
2 inter-island ferry service within Maui county.

3 [~~d~~] (e) The chairperson may adopt rules pursuant to
4 chapter 91 to further implement this section."

5 SECTION 4. Section 200-10, Hawaii Revised Statutes, is
6 amended by amending subsection (c) to read as follows:

7 "(c) The permittee shall pay moorage fees to the
8 department for the use permit that shall be based on[7] but not
9 limited to[7] the use of the vessel, its effect on the harbor,
10 use of facilities, and the cost of administering this mooring
11 program; and, furthermore:

12 (1) [Moorage] Except for commercial maritime activities
13 where there is a tariff established by the department
14 of transportation, moorage fees shall be established
15 by appraisal by a state-licensed appraiser approved by
16 the department and shall be higher for
17 nonresidents[+]. The mooring fees shall be set by
18 appraisal categories schedule A and schedule B, to be
19 determined by the department, and shall increase
20 accordingly, annually, to any cost-of-living index
21 increase; provided that:



- 1 (A) Schedule A shall include existing mooring
2 permittees with an annual increase toward
3 schedule B rates spread out evenly over a five-
4 year period; and
- 5 (B) Schedule B shall apply to all new mooring
6 applicants and transient slips on or after
7 July 1, 2009;
- 8 (2) For commercial maritime activities where there is a
9 tariff established by the department of
10 transportation, harbors division, the department may
11 adopt the published tariff of the department of
12 transportation, harbors division, or establish the fee
13 by appraisal by a state licensed appraiser approved by
14 the department;
- 15 ~~(+2)~~ (3) An application fee shall be collected when
16 applying for moorage in state small boat harbors and
17 shall thereafter be collected annually when the
18 application is renewed. The application fee shall be:
19 (A) Set by the department; and
20 (B) Not less than \$100 for nonresidents;
- 21 ~~(+3)~~ (4) If a recreational vessel is used as a place of
22 principal habitation, the permittee shall pay, in



1 addition to the moorage fee, a liveaboard fee that
2 shall be calculated at a rate of:

3 (A) \$5.20 a foot of vessel length a month if the
4 permittee is a state resident; and

5 (B) \$7.80 a foot of vessel length a month if the
6 permittee is a nonresident;

7 provided that the liveaboard fees established by this
8 paragraph may be increased by the department at the
9 rate of the annual cost-of-living index, but not more
10 than five per cent in any one year, beginning
11 [~~January~~] July 1 of each year; [~~and~~]

12 [~~(4)~~] (5) If a vessel is used for commercial purposes from
13 its permitted mooring, the permittee shall pay, in
14 lieu of the moorage and liveaboard fee, a fee based on
15 three per cent of the gross revenues derived from the
16 use of the vessel or two times the moorage fee
17 assessed for a recreational vessel of the same size,
18 whichever is greater~~[+]~~; and

19 (6) In addition, the department is authorized to assess
20 and collect utility fees, including electrical and
21 water charges, and common area maintenance fees in
22 small boat harbors."



1 SECTION 5. (a) Pursuant to section 200-2.5, Hawaii
2 Revised Statutes, the department of land and natural resources
3 is directed to lease certain fast lands and submerged lands at
4 the Ala Wai harbor using the request for proposals process for
5 the public-private development, management, and operation of
6 areas of Ala Wai harbor designated in subsection (b).

7 (b) The areas to be leased include:

- 8 (1) Row seven hundred and row eight hundred at the makai
9 or ocean side of the Ala Wai harbor and adjoining the
10 breakwater;
- 11 (2) The area immediately mauka or landward of row seven
12 hundred, that is presently used for metered vehicular
13 parking;
- 14 (3) The submerged lands between row seven hundred and row
15 eight hundred;
- 16 (4) Tax map key: (1) 2-3-37: portion of 12, 24, 33, and
17 34, comprising approximately square feet, more
18 or less, that is presently used for harbor offices and
19 permitted vehicular parking;
- 20 (5) Tax map key: (1) 2-3-37: 20, comprising fifteen
21 thousand one hundred ninety-nine square feet, more or



1 less, and that is the site of the existing fuel dock
2 facility; and

3 (6) Tax map key: (1) 2-6-10: 05 and 16, comprising thirty-
4 eight thousand three hundred sixty-nine square feet,
5 more or less, and that is the site of the existing
6 haul-out and repair facility;

7 provided that the parcels in paragraphs (5) and (6) shall not be
8 included in this request for proposals if they are already the
9 subject of a prior request for proposals that has been approved
10 by the board of land and natural resources.

11 (c) The permissible uses under this lease shall include:

12 (1) A minimum of not less than one hundred twenty
13 berths for vessels; provided that:

14 (A) Not more than forty berths shall be available for
15 vessels used for purposes of recreational boating
16 activities that are also the principal habitation
17 of the owners;

18 (B) Not more than thirty berths, including those
19 allowed pursuant to section 200-9(c), Hawaii
20 Revised Statutes, shall be available for vessels
21 issued commercial use permits; and



1 (C) All berths provided under this paragraph shall be
2 made available to the public pursuant to
3 department of land and natural resources rules,
4 with moorage fees to be determined by the
5 developer;

6 (2) Office space, including a minimum of square
7 feet for division of boating and ocean recreation use;

8 (3) Vehicular parking, including a minimum of
9 parking stalls for division of boating and ocean
10 recreation use and for public metered parking;

11 (4) Commercial uses, including but not limited to
12 restaurants, retail shops, marine supplies shops, and
13 sundry stores, all made available to the public;

14 (5) Residential uses;

15 (6) Vessel fueling facilities;

16 (7) Vessel haul-out and repair facilities; and

17 (8) Vessel haul-out and storage facilities.

18 (d) The lease shall not exceed a maximum term of sixty-
19 five years and shall provide for:

20 (1) A minimum lease rent that is the greater of a
21 commercially acceptable percentage of the gross
22 receipts of the lessee from the developed leased



1 premises or a fair return on the fair market value of
2 the vacant leased premises, as determined by appraisal
3 by a state-licensed appraiser approved by the
4 department, with reasonable periodic step-ups in the
5 minimum lease rent over the term of the lease; and

6 (2) A three-year development period with a fixed reduced
7 lease rent.

8 (e) Chapter 171 and section 190D-33, Hawaii Revised
9 Statutes, notwithstanding, all revenues from the lease shall be
10 deposited in the boating special fund.

11 (f) Chapters 171 and 190D, Hawaii Revised Statutes,
12 notwithstanding, the lease for the fast lands and submerged
13 lands set forth in this Act shall be pursuant to section
14 200-2.5, Hawaii Revised Statutes. Further, section 171-53,
15 Hawaii Revised Statutes, notwithstanding, the prior
16 authorization of the legislature by concurrent resolution for
17 the lease of submerged lands shall not be required.

18 SECTION 6. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 7. This Act shall take effect on July 1, 2020.



Report Title:

Small Boat Harbors; Commercial Vessels; Development

Description:

Permits Board of Land and Natural Resources to lease submerged lands, in accordance with Chapter 190D, Hawaii Revised Statutes, by public auction, request for proposal, or negotiation, in a state boating facility; permits commercial permits in Ala Wai and Keehi small boat harbors; directs DLNR to provide an request for proposal for a public-private partnership to develop a portion of Ala Wai small boat harbor; permits commercial use permits to be issued for vessels assigned moorings in Ala Wai and Keehi small boat harbors; and provides for future mooring fees to be established by appraisal. (HB1766 HD2)

