
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 further finds that these ocean recreation facilities
7 are in short supply and in many cases are in dire need of long
8 overdue repair and maintenance. Some facilities are in such
9 disrepair that they cannot be safely used.

10 One of these facilities, the Ala Wai boat harbor, has been
11 a recent recipient of some badly needed repair and replacement
12 of floating docks; however, the need for further maintenance at
13 Ala Wai and other boat harbors remains unfulfilled. In spite of
14 its needs, the Ala Wai boat harbor includes certain assets
15 within its facilities that are underused and if properly
16 developed could potentially generate revenues that would enable
17 not only its own continued improvement and maintenance but the
18 improvement and maintenance of the rest of the facilities now



1 operated by the department of land and natural resources'
2 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, a
5 further decline in the State's small boat harbors would be a
6 huge loss that the State cannot allow.

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 boat 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 boat harbor facilities that are
20 presently underused to maximize the revenue potential
21 from its facilities.



1 SECTION 2. Section 46-80.5, Hawaii Revised Statutes, is
2 amended by amending subsection (e) to read as follows:

3 "(e) Exemptions.

4 (1) Property owned by the state or county governments or
5 entities, may be exempt from the assessment except as
6 provided in paragraph (3);

7 (2) Property owned by the federal government or entities,
8 shall be exempt from the assessment except as provided
9 in paragraph (3);

10 (3) If a public body owning property, including property
11 held in trust for any beneficiary, which is exempt
12 from an assessment pursuant to paragraphs (1) and (2),
13 grants a leasehold or other possessory interest in the
14 property to a nonexempt person or entity, the
15 assessment, notwithstanding paragraphs (1) and (2),
16 shall be levied on the leasehold or possessory
17 interest and shall be payable by the lessee; ~~and~~

18 (4) The Ala Wai boat harbor shall be exempt from the
19 assessment and any special improvement district
20 requirements regarding redevelopment authorized by
21 subsection (a); and



1 [~~4~~] (5) No other properties or owners shall be exempt
2 from the assessment unless the properties or owners
3 are expressly exempted in the ordinance establishing a
4 district adopted pursuant to this section or amending
5 the rate or method of assessment of an existing
6 district."

7 SECTION 3. Section 200-2.5, Hawaii Revised Statutes, is
8 amended by amending subsections (b) and (c) to read as follows:

9 "(b) The permissible uses under any lease disposed of
10 under this section shall be consistent with the purpose for
11 which the land was set aside by the governor pursuant to section
12 171-11. Permissible uses may include any use that will
13 complement or support the ocean recreation or maritime
14 activities of state boating facilities.

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

19 SECTION 4. Section 200-8, Hawaii Revised Statutes, is
20 amended to read as follows:



1 " [†] §200-8 [†] Boating program; payment of costs. The cost
2 of administering a comprehensive statewide boating program,
3 including [7] but not limited to [7] the cost of:

- 4 (1) Operating, maintaining, and managing all boating
5 facilities under the control of the department;
- 6 (2) Improving boating safety;
- 7 (3) Operating a vessel registration and boating casualty
8 investigation and reporting system; and
- 9 (4) Other boating program activities,

10 shall be paid from the boating special fund [-]; provided that
11 any fees collected within small boat harbors shall be expended
12 only for costs related to the operation, upkeep, maintenance,
13 and improvement of the small boat harbors. The amortization
14 (principal and interest) of the costs of capital improvements
15 for boating facilities appropriated after July 1, 1975,
16 including [7] but not limited to [7] berths, slips, ramps, related
17 accommodations, general navigation channels, breakwaters, aids
18 to navigation, and other harbor structures, may be paid from the
19 boating special fund or from general revenues as the legislature
20 may authorize in each situation. Revenues provided in this
21 chapter for the boating special fund shall be at least



1 sufficient to pay the special fund costs established in this
2 section."

3 SECTION 5. Section 200-9, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§200-9 Purpose and use of state small boat harbors.** (a)

6 State small boat harbors are constructed, maintained, and
7 operated for the purposes of:

8 (1) Recreational boating activities;

9 (2) Landing of fish; and

10 (3) Commercial vessel activities.

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



1 (b) Vessels used for purposes of recreational boating
2 activities [~~which~~] that are also the principal habitation of the
3 owners shall occupy no more than one hundred twenty-nine berths
4 at Ala Wai boat harbor and thirty-five berths at Keehi boat
5 harbor, which is equal to fifteen per cent of the respective
6 total moorage space that was available as of July 1, 1976, at
7 the Ala Wai and Keehi boat harbors. [~~Notwithstanding the~~
8 ~~purposes of small boat harbors, moorage for commercial vessels~~
9 ~~and commercial vessel activities is not permitted in the Ala Wai~~
10 ~~and Keehi boat harbors; provided that commercial catamarans, for~~
11 ~~which valid permits or registration certificates have been~~
12 ~~issued by the department which allow the catamarans to operate~~
13 ~~upon Waikiki shore waters for hire, may be permitted to moor in~~
14 ~~Ala Wai boat harbor at facilities leased for commercial~~
15 ~~purposes.~~]

16 (c) The total number of valid commercial use permits that
17 may be issued for vessels assigned mooring in Ala Wai boat
18 harbor shall not exceed fifteen per cent of the total number of
19 berths and shall not exceed thirty-five per cent of the total
20 number of berths at the Keehi boat harbor; provided that at the
21 Ala Wai boat harbor, vessels issued commercial use permits
22 shall:



- 1 (1) Not exceed sixty-five feet in length;
- 2 (2) Occupy not more than fifty-six berths located along
3 the row of berths furthestmost mauka or adjacent to
4 Holomua street, with the remainder located throughout
5 the Ala Wai boat harbor, with a priority assigned to
6 row seven hundred and row eight hundred;
- 7 (3) Be phased-in in a manner that does not displace any
8 existing recreational boater or existing catamaran
9 operator; and
- 10 (4) Include commercial catamarans, for which valid
11 commercial use permits or existing registration
12 certificates have been issued by the department that
13 allow the catamarans to operate upon Waikiki shore
14 waters for hire.

15 The department shall allow a sole proprietor of a catamaran
16 operating with a valid commercial use permit or existing
17 registration certificate, issued by the department, for a
18 commercial catamaran to land its commercial catamaran on Waikiki
19 beach [~~and~~], to operate upon Waikiki shore waters for hire, and
20 to transfer the ownership of the vessel from personal ownership
21 to corporate or other business ownership without terminating the
22 right to operate under the commercial use permit or existing



1 registration certificate. The existing commercial use permit or
2 existing registration certificate shall be reissued in a timely
3 manner in the name of the transferee corporation or other
4 business entity. No valid commercial use permit or existing
5 registration certificate issued to an owner of a commercial
6 catamaran operating in the Waikiki area shall be denied or
7 revoked without a prior hearing held in accordance with chapter
8 91.

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

- 16 (1) The vessel operator has been issued a certificate of
17 public convenience and necessity for the purpose of
18 engaging in inter-island ferry service that includes a
19 route within Maui county;
- 20 (2) The design and performance characteristics of the
21 vessel will permit safe navigation within the harbor



1 entrance channel and safe docking within Maui county
2 small boat facilities;

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

6 (4) All preferential consideration and waivers, including
7 any commercial permits issued under this section,
8 shall cease upon the vessel operator's termination of
9 inter-island ferry service within Maui county.

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

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

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

19 (1) [~~Moorage~~] Except for commercial maritime activities
20 where there is a tariff established by the department
21 of transportation, moorage fees shall be established
22 by appraisal by a state-licensed appraiser approved by



1 the department and shall be higher for nonresidents [7]
2 than for residents. The mooring fees shall be set by
3 appraisal categories schedule A and schedule B, to be
4 determined by the department, and may be increased
5 annually by the department, to reflect a cost-of-
6 living index increase; provided that:

7 (A) Schedule A shall include existing mooring
8 permittees; and

9 (B) Schedule B shall apply to all new mooring
10 applicants and transient slips on or after
11 July 1, 2011;

12 provided further that schedule A rates shall be
13 increased by the same amount each year so that
14 schedule A rates equal schedule B rates by July 1,
15 2014;

16 (2) For commercial maritime activities where there is a
17 tariff established by the department of
18 transportation, harbors division, the department may
19 adopt the published tariff of the department of
20 transportation, harbors division, or establish the fee
21 by appraisal by a state licensed appraiser approved by
22 the department;



1 ~~[(2)]~~ (3) An application fee shall be collected when
2 applying for moorage in state small boat harbors and
3 shall thereafter be collected annually when the
4 application is renewed. The application fee shall be:

- 5 (A) Set by the department; and
- 6 (B) Not less than \$100 for nonresidents;

7 ~~[(3)]~~ (4) If a recreational vessel is used as a place of
8 principal habitation, the permittee shall pay, in
9 addition to the moorage fee, a liveaboard fee that
10 shall be calculated at a rate of:

- 11 (A) \$5.20 a foot of vessel length a month if the
12 permittee is a state resident; and
- 13 (B) \$7.80 a foot of vessel length a month if the
14 permittee is a nonresident;

15 provided that the liveaboard fees established by this
16 paragraph may be increased by the department at the
17 rate of the annual cost-of-living index, but not more
18 than five per cent in any one year, beginning

19 ~~[January]~~ July 1 of each year; ~~[and]~~

20 ~~[(4)]~~ (5) If a vessel is used for commercial purposes from
21 its permitted mooring, the permittee shall pay, in
22 lieu of the moorage and liveaboard fee, a fee based on



1 three per cent of the gross revenues derived from the
2 use of the vessel or two times the moorage fee
3 assessed for a recreational vessel of the same size,
4 whichever is greater[-]; and

5 (6) The department is authorized to assess and collect
6 utility fees, including electrical and water charges,
7 and common area maintenance fees in small boat
8 harbors."

9 SECTION 7. (a) Pursuant to section 200-2.5, Hawaii
10 Revised Statutes, the department of land and natural resources
11 is directed to lease certain fast lands at the Ala Wai boat
12 harbor using the request for proposals process for the public-
13 private development, management, and operation of areas of Ala
14 Wai boat harbor.

15 (b) The permissible uses under the lease issued pursuant
16 to subsection (a) shall include:

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

19 (A) Not more than forty berths shall be available for
20 vessels used for purposes of recreational boating
21 activities that are also the principal habitation
22 of the owners;



- 1 (B) Not more than thirty berths, including those
2 allowed pursuant to section 200-9(c), Hawaii
3 Revised Statutes, shall be available for vessels
4 issued commercial use permits; and
- 5 (C) All berths provided under this paragraph shall be
6 made available to the public pursuant to
7 department of land and natural resources rules,
8 with moorage fees to be determined by the
9 developer;
- 10 (2) Office space, including a minimum of square feet
11 for division of boating and ocean recreation use;
- 12 (3) Vehicular parking, including a minimum of
13 parking stalls for division of boating and ocean
14 recreation use and for public metered parking;
- 15 (4) Commercial uses, including but not limited to
16 restaurants, retail shops, marine supplies shops, and
17 sundry stores, all made available to the public;
- 18 (5) Hotel, residential, and timeshare uses;
- 19 (6) Vessel fueling facilities;
- 20 (7) Vessel haul-out, storage, and repair facilities; and
- 21 (8) Deep [~~sea-water~~] seawater air conditioning [~~plant-~~]
22 plants.



1 (c) The lease shall not exceed a maximum term of sixty-
2 five years and shall provide for:

3 (1) A minimum lease rent that is the greater of a
4 commercially acceptable percentage of the gross
5 receipts of the lessee from the developed leased
6 premises or a fair return on the fair market value of
7 the vacant leased premises, as determined by appraisal
8 by a state-licensed appraiser approved by the
9 department, with reasonable periodic step-ups in the
10 minimum lease rent over the term of the lease; and

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

13 (d) Chapter 171 and section 190D-33, Hawaii Revised
14 Statutes, notwithstanding, all revenues from the lease shall be
15 deposited in the boating special fund.

16 SECTION 8. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect on July 1, 2030.



Report Title:

Small Boat Harbors; Commercial Vessels; Development

Description:

Exempts Ala Wai boat harbor from assessment and special improvement district requirements regarding redevelopment. Clarifies the permissible uses of leased state boating facility properties to include ocean recreation activities. Extends the maximum term for the disposition of public lands of state boating facilities to sixty-five years. Requires any fees collected within the small boat harbors to be expended only for costs relating to the operation, upkeep, maintenance, and improvement of small boat harbors. Permits commercial permits in Ala Wai and Keehi small boat harbors. Provides for future mooring fees to be established by appraisal by a state-licensed appraiser. Authorizes the department of land and natural resources to assess and collect utility and common area maintenance fees. Directs the department of land and natural resources to use a request for proposals to develop a portion of Ala Wai small boat harbor. Effective July 1, 2030. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

