
A BILL FOR AN ACT

RELATING TO VESSELS.

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

1 SECTION 1. Section 200-41, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]§200-41[~~f~~] **Disposition** [~~by chairperson~~] of certain
4 **abandoned vessels.** (a) Any vessel [~~which:~~

5 ~~(1) Has been left unattended for a continuous period of~~
6 ~~more than thirty days; and~~

7 ~~(2) Is within the waters of the State or on public~~
8 ~~property, or is on private property without~~

9 ~~authorization of the owner or occupant of the~~
10 ~~property,~~

11 ~~may be caused by the chairperson to be taken into custody and~~

12 ~~disposed of pursuant to this part.] may be deemed abandoned if~~

13 the vessel has been moored or otherwise left in the waters of

14 the State or on public property contrary to law, or rules having

15 the force and effect of law, or the vessel has been left on

16 private property without authorization of the owner or occupant

17 of the property and if:

- 1 (1) The vessel's registration certificate or marine
2 document has expired and the registered owner no
3 longer resides at the address listed in the vessel
4 registration or marine document records of the
5 department or the United States Coast Guard;
- 6 (2) The last registered owner of record disclaims
7 ownership and the current owner's name or address
8 cannot be determined;
- 9 (3) The vessel identification numbers and other means of
10 identification have been removed so as to hinder or
11 nullify efforts to locate or identify the owner;
- 12 (4) The vessel registration records of the department and
13 the marine document records of the United States Coast
14 Guard contain no record that the vessel has ever been
15 registered or documented and the owner's name or
16 address cannot be determined; or
- 17 (5) The requirements of section 200-52 are met.
- 18 (b) The decision whether a vessel is abandoned may be made
19 by:
- 20 (1) The chairperson with regard to public property under
21 the jurisdiction of the department; or

- 1 (2) Any other state department or agency through its
2 director with regard to public property within the
3 department or agency's respective jurisdiction; or
4 (3) Any county through its mayor or chief of police with
5 regard to public property within the respective
6 county's jurisdiction.

7 Once a vessel is deemed abandoned, the respective official under
8 subsection (b) may direct and cause the vessel to be taken into
9 custody and disposed of pursuant to and in the manner provided
10 in this chapter.

11 (c) All vessels abandoned on private property shall be the
12 responsibility of the private property owner."

13 SECTION 2. Section 200-42, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§200-42 Notice to owner.** Upon taking custody of any
16 vessel[7] by a state or county agency, a written notice shall
17 immediately be posted on the vessel and a duplicate original
18 sent by registered or certified mail, with a return receipt
19 requested, to [~~the~~] any owner registered with the department or
20 documented by the United States Coast Guard or any lien holder
21 or operator of the vessel on record with the department or the
22 United States Coast Guard at their respective last known address
23 on record with the department or the United States Coast Guard.

1 The notice shall contain a brief description of the vessel, the
2 location of custody, and the intended disposition of the vessel
3 if not repossessed within twenty days after the mailing of the
4 notice. Such owner, lien holder, or operator, of the vessel
5 shall have ten days after receipt of the mailed notice to
6 request in writing an administrative hearing~~[-]~~ from the state
7 or county agency that took custody of the vessel. This
8 administrative hearing is solely for the purpose of allowing the
9 owner, lien holder, or operator of an impounded vessel to
10 contest the basis given ~~[by the department]~~ for the impoundment
11 of the vessel. The hearing must be held within five working
12 days of the ~~[department's]~~ state or county agency's receipt of
13 the written request."

14 SECTION 3. Section 200-44, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§200-44 Possession by interested party.** Any person
17 having an interest in the vessel taken into custody may take
18 possession of the vessel prior to the date of public auction
19 upon payment to the ~~[department]~~ state or county agency that
20 took custody of the vessel of all use fees, towing, handling and
21 storage charges, appraisal and advertising expenses, and any
22 other expenses incurred by ~~[the department]~~ that state or county
23 agency in connection with the vessel. If the person taking

1 possession of the vessel is not the registered or documented
2 owner, the person, prior to taking possession of the vessel,
3 shall pay the foregoing expenses and post security satisfactory
4 to the [~~department~~] state or county agency, which shall not
5 exceed the value of the vessel. The security, if not forfeited,
6 shall be returned to the person posting it within two years
7 after receipt."

8 SECTION 4. Section 200-45, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§200-45 When public auction not required.** Public auction
11 shall not be required when the appraised value of any vessel is
12 less than \$5,000, as determined by an independent appraiser who
13 has at least one year of experience in the sale or purchase of
14 vessels. Upon that determination, after public notice of
15 intended disposition has been given at least once, the
16 [~~department~~] state or county agency that took custody of the
17 vessel may sell the vessel by negotiation, dispose of it as
18 junk, or donate the vessel to any governmental agency."

19 SECTION 5. Section 200-46, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[~~§~~]**§200-46**[~~§~~] **Effect of sale.** The transfer of interest
22 by sale hereunder shall be evidenced by a bill of sale from the
23 department, other state agency, or county, shall be considered a

1 transfer by operation of law, and shall be governed by
2 provisions applicable thereto."

3 SECTION 6. Section 200-47, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§200-47 Disposition of proceeds.** The department, other
6 state agency, or county shall deposit that portion of the
7 proceeds of the sale of a vessel that represents the mooring or
8 other fees and charges due the department, other state agency,
9 or county, the expenses of the auction, and any other expense
10 incurred by the department, other state agency, or county, in
11 taking into custody and disposing of an abandoned vessel,
12 derelict vessel, or vessel impounded under section 200-16, into
13 the boating special fund or other state or county fund, as
14 appropriate, from which the expenses incurred in connection with
15 the vessel were paid. The balance, if any, shall be deposited
16 into the general fund of the State. The owner may recover any
17 balance of the proceeds from the State only if the owner files a
18 claim therefor with the department of budget and finance within
19 one year after the execution of the bill of sale. If no claim
20 is made within the year allowed, the money shall become a state
21 realization. A lien holder shall receive priority in payment
22 from the balance of the proceeds to the extent of the lien
23 holder's lien on the vessel. If the proceeds of the sale are

1 insufficient to cover the mooring and other fees and charges,
 2 the expenses of the auction and the other expenses incurred by
 3 the department, other state agency, or county in taking into
 4 custody and disposing of the vessel, the department, other state
 5 agency, or county may bring an action for the deficiency in a
 6 court of appropriate jurisdiction against the registered or
 7 documented owner or any person who had an interest in the vessel
 8 when custody was taken by the department~~[-]~~, other state agency,
 9 or county."

10 SECTION 7. Chapter 200, Hawaii Revised Statutes, is
 11 amended by amending the title of part IV to read as follows:

12 "PART IV. VESSELS ABANDONED ON [~~BUSINESS~~] PREMISES
 13 OF PERSONS ENGAGED IN REPAIR BUSINESS,
 14 OF PRIVATE MARINAS, [~~AND~~] OF YACHT CLUBS,
 15 OR OF OTHER PRIVATE PROPERTY OWNERS"

16 SECTION 8. Section 200-51, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 "§200-51 Disposition of vessels [~~by persons in~~] abandoned
 19 on premises of vessel repair business, private marinas, [~~or~~]
 20 yacht clubs~~[-]~~, or other private property. When any person
 21 abandons a vessel upon the premises of a vessel repair business,
 22 a private marina, [~~or~~] a yacht club, or other private property,
 23 the owner of the vessel repair business or private marina, or

1 the owner's representative, or the designated representative of
2 the yacht club, or the owner of other private property, may sell
3 or dispose of the vessel in accord with this part."

4 SECTION 9. Section 200-52, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§200-52 When vessel deemed abandoned[-] on the premises**
7 **of a vessel repair business, private marina, or yacht club.** A

8 vessel shall be deemed to be abandoned upon satisfaction of all
9 the following conditions:

- 10 (1) The service requested or required by a person whose
11 vessel is navigated, towed, or brought to a vessel
12 repair business, private marina, or yacht club, such
13 as mooring, storage, towing, and rendering estimates
14 of the cost of repairs, has been performed;
- 15 (2) No authorization is given to perform any further
16 service respecting the vessel, or to allow mooring, or
17 storage, but the vessel is left on the repair
18 business, private marina, or yacht club premises;
- 19 (3) The owner of the repair business or private marina, or
20 the owner's authorized representative, or the
21 designated representative of the yacht club, has given
22 notice by registered or certified mail, to the
23 registered owner of the vessel at the address on

1 record at the vessel repair business, private marina,
2 or yacht club, and the address on record at the
3 department or United States Coast Guard, and to any
4 person with a recorded interest in the vessel stating
5 that, if the vessel is not repossessed within thirty
6 days after the mailing of the notice, it will be sold
7 or disposed of. The notice also shall contain a
8 description of the vessel and its location. The
9 notice need not be sent to an owner or any person with
10 an unrecorded interest in the vessel whose name or
11 address cannot be determined and, absent evidence to
12 the contrary, a notice shall be deemed received by the
13 legal or registered owner five calendar days after the
14 mailing; and

15 (4) The vessel is not repossessed within the thirty-day
16 period."

17 SECTION 10. Section 200-53, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§200-53 Sale or disposition of vessel.** When a vessel is
20 abandoned, the owner of the vessel repair business, or private
21 marina, or the owner's authorized representative, or the
22 designated representative of the yacht club, or the owner of
23 other private property, after one public advertisement in a

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1 newspaper of general circulation in the State, may negotiate a
2 sale of the vessel or dispose of it; provided that the vessel
3 shall not be sold or disposed of less than five calendar days
4 after the publication of the advertisement. Upon the sale or
5 disposal of the vessel under this part, the owner of the vessel
6 repair business, or private marina, or the owner's authorized
7 representative, or the designated representative of the yacht
8 club, or the owner of other private property, shall file an
9 affidavit with the department stating to whom the vessel was
10 sold or, if the vessel was not sold, the manner in which the
11 vessel was disposed of pursuant to this part."

12 SECTION 11. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 12. This Act shall take effect upon its approval.

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INTRODUCED BY: Calvin K. H. Long

BY REQUEST
JAN 23 2012

H . B . NO . 2589

Report Title:

Vessels; Custody and Disposition

Description:

Clarifies responsibility for disposing of vessels and amends the description of an abandoned vessel.

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

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO VESSELS.

PURPOSE: To clarify responsibility for disposing of abandoned vessels within the State and amend the description of an abandoned vessel.

MEANS: Amend sections 200-41, 200-42, 200-44, 200-45, 200-46, and 200-47; the title of part IV of chapter 200; and sections 200-51, 200-52, and 200-53, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Generally, current statutes place the burden of disposal of all abandoned vessels on the Department, regardless of whether the vessels lie abandoned on public lands under another agency's jurisdiction or on private lands. The Department has the ability to take boats off reefs, but has no equipment or expertise to remove abandoned boats on public streets or other fast lands. The disposition is both costly and time-consuming for the Department. This bill clarifies that the Department shall only be responsible for the disposition of vessels abandoned on lands and waters under its jurisdiction.

Section 200-51, HRS, specifically provides that when any person abandons a vessel upon the premises of a vessel repair business, a private marina, or a yacht club, the owner of the business or private marina, or the owner's representative, or the designated representative of the yacht club, may sell or dispose of the vessel in accordance with part IV. This bill proposes to expand the authority to sell or dispose of a vessel abandoned on other private property to the owners of the other private property.

Impact on the public: All private property owners will be responsible for disposal of abandoned vessels on their property.

Impact on the department and other agencies: This bill would release the Department from having to pay for the disposing of abandoned vessels on lands and waters not under its jurisdiction.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 801.

OTHER AFFECTED
AGENCIES: State and county agencies.

EFFECTIVE DATE: Upon approval.