
A BILL FOR AN ACT

RELATING TO USE PERMITS FOR SMALL BOAT HARBOR FACILITIES.

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

1 SECTION 1. Section 200-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§200-10 Permits and fees for state small boat harbors[~~-~~];**
4 **permit transfers.** (a) No person shall moor a vessel in a state
5 small boat harbor without:

6 (1) First obtaining a use permit from the department; and
7 (2) Being the owner of the vessel.

8 (b) In order to obtain a permit or a permit renewal, the
9 owner of a vessel shall provide, at the owner's own expense:

10 (1) A marine surveyor's inspection no more than two years
11 old, certifying that the surveyor has inspected the
12 vessel and considers it to fulfill the requirements
13 set by the department; and

14 (2) Documentation that the person is the owner of the
15 vessel. The documentation shall meet requirements
16 established by the department.

17 (c) The permittee shall pay moorage fees to the department
18 for the use permit that shall be based on but not limited to the



1 use of the vessel, its effect on the harbor, use of facilities,
2 and the cost of administering this mooring program; and,
3 furthermore:

4 (1) Except for commercial maritime activities where there
5 is a tariff established by the department of
6 transportation, moorage fees shall be established by
7 appraisal by a state-licensed appraiser approved by
8 the department and shall be higher for nonresidents
9 than for residents. The moorage fees shall be set by
10 appraisal categories schedule A and schedule B, to be
11 determined by the department, and may be increased
12 annually by the department, to reflect a cost-of-
13 living index increase; provided that:

14 (A) Schedule A shall include existing mooring
15 permittees; and

16 (B) Schedule B shall apply to all new mooring
17 applicants and transient slips on or after
18 July 1, 2011;

19 provided further that schedule A rates shall be
20 increased by the same amount each year so that



1 schedule A rates equal schedule B rates by July 1,
2 2014;

3 (2) For commercial maritime activities where there is a
4 tariff established by the harbors division of the
5 department of transportation, the department may adopt
6 the published tariff of the harbors division of the
7 department of transportation or establish the fee by
8 appraisal by a state-licensed appraiser approved by
9 the department;

10 (3) An application fee shall be collected when applying
11 for moorage in state small boat harbors and shall
12 thereafter be collected annually when the application
13 is renewed. The application fee shall be:

14 (A) Set by the department; and
15 (B) Not less than \$100 for nonresidents;

16 (4) If a recreational vessel is used as a place of
17 principal habitation, the permittee shall pay, in
18 addition to the moorage fee, a liveaboard fee that
19 shall be calculated at a rate of:

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



- 1 (B) \$7.80 a foot of vessel length a month if the
2 permittee is a nonresident;
3 provided that the liveaboard fees established by this
4 paragraph may be increased by the department at the
5 rate of the annual cost-of-living index, but not more
6 than five per cent in any one year, beginning July 1
7 of each year;
- 8 (5) If a vessel is used for commercial purposes from its
9 permitted mooring, the permittee shall pay, in lieu of
10 the moorage and liveaboard fee, a fee based on three
11 per cent of the gross revenues derived from the use of
12 the vessel or two times the moorage fee assessed for a
13 recreational vessel of the same size, whichever is
14 greater; and
- 15 (6) The department is authorized to assess and collect
16 utility fees, including electrical and water charges,
17 and common-area maintenance fees in small boat
18 harbors.
- 19 (d) The department shall not renew or issue a permit to a
20 person who is not the owner of the vessel which is moored or
21 which the person desires to moor in a state small boat harbor.



1 No use permit may be transferred unless specifically provided by
2 law. Any individual who is an owner of a vessel used for
3 commercial purposes, including commercial fishing as a principal
4 means of livelihood, and possesses a valid mooring permit or
5 commercial permit, or both, in accordance with the rules adopted
6 by the chairperson pursuant to chapter 91, may transfer
7 ownership of the vessel from personal ownership to corporate or
8 other business ownership without terminating the right to moor
9 or operate the vessel under the permit or permits. The existing
10 permit or permits shall be reissued in the name of the
11 transferee corporation or other business entity.

12 (e) For the purposes of this section, "person" means any
13 individual, firm, partnership, corporation, trust, association,
14 joint venture, organization, institution, or any other legal
15 entity, and "owner" includes the legal owner of a vessel where
16 there is no security interest held by anyone on the vessel, a
17 buyer under a purchase money security interest, a debtor under
18 any security interest, a demise charterer of a vessel, or a
19 lessee or charterer of a vessel under a lease or charter which
20 provides the lessee or charterer with exclusive right to
21 possession of the vessel to the exclusion of the lessor or the



1 person from whom the vessel is chartered. "Controlled group"
2 means parent-subsidary corporations, brother-sister
3 corporations, or constructive owner. "Transfer" includes any
4 change in control, by whatever means, of any entity that owns or
5 controls, directly or indirectly, a use permit. No permittee
6 shall be allowed to moor a leased vessel in a berth unless the
7 terms of the lease are set at fair market value. A "legal
8 owner" includes a person who holds unencumbered title to a
9 vessel or is a secured party under a security interest in the
10 vessel. An owner who is issued a permit to moor a vessel in a
11 state small boat harbor shall notify the department in writing
12 of a transfer of interest or possession in the vessel within
13 seven days of transfer.

14 (f) Any person owning an interest in a corporation or
15 other business entity or is part of a controlled group
16 possessing a valid commercial permit issued by the department,
17 in accordance with rules adopted by the chairperson pursuant to
18 chapter 91, may transfer any or all stock or other interest to
19 another person without terminating the right of the corporation
20 or business entity to retain or renew its commercial permit or
21 any other permit issued to it by the department; provided that:



1 (1) The corporation or business entity has been engaged in
2 the same commercial vessel activity, as defined in
3 section 200-9, for a minimum of one year; [~~and~~]

4 (2) The seller shall pay the department a business
5 transfer fee based on the passenger-carrying capacity
6 of the vessels owned or operated by the corporation or
7 business entity as provided by rules adopted by the
8 chairperson pursuant to chapter 91[-], except for
9 transfers of stock or interest in a corporation or
10 other business entity between spouses or first-
11 generation lineal descendants; and

12 (3) In the case of a controlled group, the transferee must
13 retain eighty per cent control of the transferor.

14 Any person possessing a commercial permit shall be required to
15 meet minimum revenue standards, as a condition of retaining or
16 renewing the commercial permit.

17 [~~(e)~~] (g) The department may designate moorage space
18 within state small boat harbors to accommodate commercial
19 fishing vessels and transient vessels.

20 [~~(f)~~] (h) All revenues from the foregoing operations shall
21 be deposited in the boating special fund."



1 SECTION 2. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 3. This Act shall take effect on July 1, 2014.



Report Title:

Use Permits; Small Boat Harbors

Description:

Prohibits transfer of use permit for a state small boat harbor facility unless specifically provided by law. Allows certain changes in control by parent-subsidiary, brother-sister, or constructive owner possessing permit without loss of right to retain or renew permit. Exempts seller who transfers interest between spouses and children for estate planning from paying Department of Land and Natural Resources passenger-carrying capacity business transfer fee. (CD1)

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