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# A BILL FOR AN ACT

RELATING TO SMALL BOAT HARBORS.

**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           (a) No person shall moor a vessel in a state small boat harbor  
5 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~~] To obtain a permit or a permit renewal,  
9 the 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[7] but not limited



1 to[~~7~~] the use of the vessel, its effect on the harbor, use of  
2 facilities, and the cost of administering this mooring program;  
3 and, furthermore:

4 (1) Moorage fees shall be established by the department  
5 [~~and shall be higher for nonresidents~~];

6 (2) An application fee shall be collected when applying  
7 for moorage in state small boat harbors and shall  
8 thereafter be collected annually when the application  
9 is renewed. The application fee shall be:

10 (A) Set by the department; and

11 (B) Not less than \$100 for nonresidents;

12 (3) If a recreational vessel is used as a place of  
13 principal habitation, the permittee shall pay, in  
14 [~~addition to~~] lieu of the moorage fee, a liveaboard  
15 fee that shall be calculated at a rate of:

16 (A) [~~\$5.20 a foot of vessel length a month~~] Three  
17 times the moorage fee assessed per month for a  
18 recreational vessel of the same size, if the  
19 permittee is a state resident; and

20 (B) [~~\$7.80 a foot of vessel length a month~~] Three and  
21 one-half times the moorage fee assessed per month



1           for a recreational vessel of the same size, if  
2           the 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  
7           January 1 of each year; [~~and~~]

8           (4) If a vessel having a commercial permit is used for  
9           commercial purposes from its permitted mooring, the  
10          permittee shall pay, in lieu of the moorage and  
11          liveaboard fee, a fee based on three per cent of the  
12          gross revenues derived from the use of the vessel or  
13          two times the moorage fee assessed for a recreational  
14          vessel of the same size, whichever is greater[-]; and

15          (5) If a vessel is used for commercial fishing activity  
16          from its permitted mooring, the permittee shall pay,  
17          in lieu of the moorage and liveaboard fee, a fee that  
18          is two times the moorage fee assessed for a  
19          recreational vessel of the same size.

20          (d) The department shall not renew or issue a permit to a  
21          person who is not the owner of the vessel which is moored or  
22          which the person desires to moor in a state small boat harbor.



1 Any individual who is an owner of a vessel used for commercial  
2 purposes, including commercial fishing as a principal means of  
3 livelihood, and possesses a valid mooring permit or commercial  
4 permit, or both, in accordance with the rules adopted by the  
5 chairperson pursuant to chapter 91, may transfer ownership of  
6 the vessel from personal ownership to corporate or other  
7 business ownership without terminating the right to moor or  
8 operate the vessel under the permit or permits. The existing  
9 permit or permits shall be reissued in the name of the  
10 transferee corporation or other business entity.

11 For the purposes of this section, "person" means any  
12 individual, firm, partnership, corporation, trust, association,  
13 joint venture, organization, institution, or any other legal  
14 entity, and "owner" includes the legal owner of a vessel where  
15 there is no security interest held by anyone on the vessel, a  
16 buyer under a purchase money security interest, a debtor under  
17 any security interest, a demise charterer of a vessel, or a  
18 lessee or charterer of a vessel under a lease or charter which  
19 provides the lessee or charterer with exclusive right to  
20 possession of the vessel to the exclusion of the lessor or the  
21 person from whom the vessel is chartered. No permittee shall be  
22 allowed to moor a leased vessel in a berth unless the terms of



1 the lease are set at fair market value. A "legal owner"  
2 includes a person who holds unencumbered title to a vessel or is  
3 a secured party under a security interest in the vessel. An  
4 owner who is issued a permit to moor a vessel in a state small  
5 boat harbor shall notify the department in writing of a transfer  
6 of interest or possession in the vessel within seven days of  
7 transfer.

8 Any person owning an interest in a corporation or other  
9 business entity possessing a valid commercial permit issued by  
10 the department, in accordance with rules adopted by the  
11 chairperson pursuant to chapter 91, may transfer any or all  
12 stock or other interest to another person without terminating  
13 the right of the corporation or business entity to retain or  
14 renew its commercial permit or any other permit issued to it by  
15 the department; provided that:

- 16 (1) The corporation or business entity has been engaged in  
17 the same commercial vessel activity, as defined in  
18 section 200-9, for a minimum of one year; and  
19 (2) The seller shall pay the department a business  
20 transfer fee based on the passenger-carrying capacity  
21 of the vessels owned or operated by the corporation or



1 business entity as provided by rules adopted by the  
2 chairperson pursuant to chapter 91.

3 Any person possessing a commercial permit shall be required to  
4 meet minimum revenue standards, as a condition of retaining or  
5 renewing the commercial permit.

6 (e) Any person owning an interest in a corporation or  
7 other business entity operating a commercial fishing vessel may  
8 make a one-time transfer of any or all stock or other interest  
9 to another person without terminating the right of the  
10 corporation or business entity to retain or renew its mooring  
11 permit or any other permit issued to it by the department;  
12 provided that the person to whom the transfer is made is not an  
13 employee, shareholder, officer of the corporation, or member of  
14 that person's immediate family; provided further that:

15 (1) The corporation or business entity has been engaged in  
16 the same commercial fishing activity for a minimum of  
17 three years or for a minimum of one year if the  
18 mooring permit was acquired by a previous transfer;

19 (2) The owner of the vessel used for commercial fishing  
20 has declared this activity with the department and has  
21 paid commercial fishing vessel mooring fees; and



1       (3) The person transferring the interest in the  
2       corporation or business entity pays the department a  
3       business transfer fee of \$2,500, or a higher fee as  
4       provided by rules adopted by the chairperson pursuant  
5       to chapter 91.

6       (f) For purposes of this section, "commercial fishing  
7       activity" means fishing activity using a vessel:

8       (1) Whose owner possesses:

9       (A) Valid commercial fishing registration documents;

10      (B) Other business licenses and permits required by  
11      law with respect to the vessel; and

12      (C) Income tax returns that verify that fifty-one per  
13      cent or more of the business involving the vessel  
14      is generated through the sale of fish or  
15      permitted coral;

16      (2) That is operated by an individual holding a valid  
17      commercial marine license; and

18      (3) Whose owner can prove that at least \$15,000 in income  
19      has been earned with respect to the vessel in the most  
20      recent taxable year applicable to a permit  
21      application.



1           ~~(e)~~ (g) The department may designate moorage space  
2 within state small boat harbors to accommodate commercial  
3 fishing vessels and transient vessels.

4           ~~(f)~~ (h) All revenues from the foregoing operations shall  
5 be deposited in the boating special fund."

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

8           SECTION 3. This Act shall take effect on July 1, 2050.

9





**Report Title:**

Small Boats; Commercial Permit; Mooring Permit; Liveaboard Fees

**Description:**

Adjusts fees for permittees of vessels that are used for a place of principal habitation in state small boat harbors; requires a permittee of certain commercial fishing vessels to pay a fee two times the moorage fee of a recreational vessel; allows a person to transfer stock or interest in a corporation or business entity operating a commercial fishing vessel while allowing the corporation or business entity to retain its mooring permit under certain circumstances; defines "commercial fishing activity"; effective July 1, 2050. (SD1)

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

