

§13-231-13 Joint and several liability; non-transferability of use [permit] permits. (a) All ~~[persons]~~ individuals and entities [whose signatures] who have [been affixed to] signed any agreement with respect to a vessel shall be jointly and severally liable for the full performance of such agreement. No use permit shall be transferable, so that whenever a permittee parts with possession or transfers the title to or interest in the vessel identified in the permit to another person by any arrangement, the use permit shall expire except as provided herein ~~[with respect to the original permittee]~~. The new possessor, transferee, or owner shall have no right to use the ~~[space covered by the use]~~ permit.

(b) Upon written application to and approval by the department:

- (1) The original mooring permittee may retain the mooring space under the permittee's mooring permit; provided that within thirty days the permittee moves into the space another vessel owned by the permittee of appropriate characteristics for occupancy of the berth or mooring space and pays the appropriate fees therefor;
- (2) A principal owner of a vessel may retain a berth or mooring space if that owner acquires the interest of one or more co-owners because a co-owner has died or moved out of the State;
- (3) An owner may retain the berth or mooring space if an interest in a vessel is transferred to the owner's spouse or ~~[other]~~ immediate family member, or a personal partner authorized to live on board under a principal habitation permit;
- (4) The spouse or immediate family member, or a personal partner authorized to live on board under a principal habitation permit, of a permittee, may retain all ~~[small boat harbor]~~ use permits ~~[held by the permittee]~~ upon the death of the permittee, provided that the permittee's will, trust, or a court decree (the department may require a court decree if the department finds it necessary) states that the spouse or immediate family member, or a personal partner authorized to live on board under a principal habitation permit shall be awarded ownership of the vessel identified in the ~~[mooring]~~ use permit; or
- (5) The department may extend the deadline for the permittee holder to place a new vessel in the assigned berth or mooring space or in operation if conclusive evidence is presented to the department that the



granting of additional time for compliance is reasonable and essential to prevent undue hardship, provided that any extension of time necessary to place a new vessel in the berth or mooring space or in operation shall not exceed one hundred twenty days from the date of sale or transfer of the previously assigned vessel.

(c) Notwithstanding the requirements of subsection (a), the department may permit a one-time change in ownership of the permittee's vessel from personal ownership to corporate or other business ownership, provided that the ~~[permittee]~~ individual holds a valid commercial use permit, a valid catamaran registration certificate, or is engaged in commercial fishing as a primary means of livelihood, and notifies the department in writing of an intended change in ownership. The transfer of all ~~[small boat harbor]~~ use permits (or registration certificate) from the individual to the new corporation or other business entity shall be completed within one year of the date of receipt of the notification of intended change of ownership. The following requirements and conditions shall apply to the foregoing change in ownership:

- (1) The ownership of any corporation or other business entity formed under the provisions of this subsection shall ~~[be limited to]~~ include the original individual owner [permittee, any co-owners of the vessel, and the members of the immediate families of the permittee and co-owners];
- (2) The permittee or certificate holder shall apply for the reissuance of the commercial permit, mooring permit, catamaran registration certificate, and any other ~~[small boat harbor]~~ use permits in the name of the corporation or other business entity in accordance with the application procedures established by this chapter. Each application shall be accompanied by a copy of the charter of incorporation or other evidence acceptable to the department that the new corporation or other business entity is properly registered with the department of commerce and consumer affairs and is licensed to do business in the State; and
- (3) Each application for change of ownership shall be reviewed by the department in accordance with the provisions of section 13-231-82.

(d) No corporation or other business entity shall be eligible for the initial issuance of a mooring permit at a state small boat harbor unless the entity is eligible for a then available commercial use permit or catamaran registration



certificate.

(e) "Immediate family member" means, for purposes of this section, a natural individual who by blood line or adoption is a child, grandchild, parent, or grandparent of the deceased.

[Eff 2/24/94; am and comp ] (Auth: HRS §§200-2, 200-4, 200-9, 200-10) (Imp: §§200-2, 200-4, 200-9, 200-10)

