
A BILL FOR AN ACT

RELATING TO LAND COURT.

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

1 SECTION 1. (a) No additional land shall be registered
2 pursuant to chapter 501, Hawaii Revised Statutes, after December
3 31, 2008.

4 (b) No additional registration application shall be filed
5 after the effective date of this Act.

6 (c) Involuntary instruments may be accepted for
7 registration until January 1, 2009.

8 (d) No voluntary instrument shall be accepted for
9 registration after the effective date of this Act. Until
10 January 1, 2009, the registrar of the land court, upon payment
11 of the recording fee by the holder of a voluntary instrument,
12 shall place on record with the registrar of conveyances, each
13 current certificate of title to all lands affected by the
14 voluntary instrument. Before placing the certificate of title,
15 the registrar of the land court shall memorialize on the
16 certificate any instrument, document, or paper that has been
17 filed or recorded with the registrar of the land court and that



1 has not yet been memorialized in accordance with section
2 501-107, Hawaii Revised Statutes.

3 (e) Before January 1, 2009, or as soon thereafter as it
4 can practicably be accomplished, the registrar of the land
5 court, without charge, shall place on record with the registrar
6 of conveyances any remaining certificates of title of registered
7 land; provided that the registrar of the land court shall
8 memorialize on the certificate of title any instrument,
9 document, or paper that has been filed with the registrar of the
10 land court and that has not yet been memorialized in accordance
11 with section 501-107, Hawaii Revised Statutes.

12 (f) Upon each filing with the registrar of conveyances
13 pursuant to subsections (d) and (e), the recorded certificate of
14 title, from and after the date of the recording, shall
15 constitute a new chain of record title in the registered owner
16 of any estate or interest as shown on the certificate of title,
17 subject only to estates, mortgages, liens, charges, and
18 interests as may be noted on the certificate of title and shall
19 be free from all other encumbrances except:

20 (1) Liens, claims, or rights arising or existing under the
21 laws or Constitution of the United States, which the
22 statutes of this State cannot require to appear of



1 record in the registry; provided that notices of liens
2 for internal revenue taxes payable to the United
3 States, and certificates affecting such liens, shall
4 be deemed to fall within this paragraph only if the
5 same are recorded in the bureau of conveyances as
6 provided by chapter 505, Hawaii Revised Statutes;

7 (2) Unpaid real property taxes assessed against the land
8 and improvements covered by the certificate of title,
9 with interest, penalties, and other additions to the
10 tax, which, unless a notice is filed and registered as
11 provided by county real property tax ordinance, shall
12 be for the period of three years from and after the
13 date on which the lien attached, and if proceedings
14 for the enforcement or foreclosure of the tax lien are
15 brought within the period, until the termination of
16 the proceedings or the completion of the tax sale;

17 (3) State tax liens, if the same are recorded in the
18 bureau of conveyances as provided by section 231-33,
19 Hawaii Revised Statutes;

20 (4) Any public highway, or any private way laid under the
21 provisions of law, when the certificate of title does



1 not state that the boundary of such way has been
2 determined;

3 (5) Any lease, coupled with occupancy, for a term not
4 exceeding one year; provided that the priority of the
5 unrecorded lease shall attach only at the date of the
6 commencement of the unrecorded lease and expire one
7 year from the date or sooner if so expressed;

8 (6) Any liability to assessments for betterments, or
9 statutory liability which may attach to land as a lien
10 prior to or independent of, the recording or
11 registering of any paper of the possibility of a lien
12 for labor or material furnished in the improvement of
13 the land; provided that:

14 (A) The priority of any such liability and the lien
15 therefore, other than for labor and material
16 furnished in the improvement of the land which
17 shall be governed by section 507-43, Hawaii
18 Revised Statutes, shall cease and terminate three
19 years after the liability first accrues unless
20 notice thereof, signed by the officer charged
21 with collection of such assessments or liability,
22 setting forth the amount claimed, the date of



1 accrual, and the land affected, is registered and
2 noted on the certificate of title within the
3 three year period; and

4 (B) If there are easements or other rights,
5 appurtenant to a parcel of registered land that
6 for any reason have failed to be registered, the
7 easements or rights shall remain so appurtenant
8 notwithstanding such failure, and shall be held
9 to pass with the land until cut off or
10 extinguished by the registration of the servient
11 estate, or in any other manner;

12 (7) The possibility of reversal or vacation of the decree
13 of registration upon appeal; and

14 (8) Any leasehold time share interest that was not
15 required to be registered under the land court
16 registration law.

17 (g) Upon recording of certificates of title pursuant to
18 subsections (d) and (e), title to formerly registered lands
19 shall be conveyed or encumbered in the same manner as title to
20 unregistered lands. All instruments shown as memorials on the
21 certificates of title so recorded shall have the same force and
22 effect as if they were filed with the registrar of conveyances



1 at the time they were filed or were otherwise memorialized on
2 the certificates of title. No instrument that was filed or
3 recorded in any other public office and not duly registered
4 before the recording as provided in this Act shall be effective
5 or constitute public notice as to formerly registered lands as a
6 result of the recording as provided in this Act, except that the
7 instrument may be recorded thereafter.

8 (h) Recording of a certificate of title under subsections
9 (d) or (e) shall not disturb the effect of any proceedings under
10 the registry system where the question of title to the real
11 property has been determined. All proceedings had in connection
12 with the registering of title that relate to the settlement or
13 determination of the title before the recording, and all
14 provisions of chapter 501, Hawaii Revised Statutes, that relate
15 to the status of the title, shall have continuing force and
16 effect with respect to the period of time that title remained
17 under the registry system and until all remaining certificates
18 of title of registered land are placed on record with the
19 registrar of conveyances pursuant subsection (e). Those
20 provisions giving rise to a right of action for damages shall
21 also continue in force and effect with respect to the period of
22 time that title remained under the registry system.



1 (i) Any registration application that is pending a land
2 court decree as of December 31, 2008, shall be transferred to
3 the circuit court and proceed as a quiet title action under
4 applicable law.

5 (j) Effective January 1, 2009, the administrative judge of
6 the circuit court of the first circuit, subject to the direction
7 of the chief justice as provided by section 601-2(b)(2)(B),
8 Hawaii Revised Statutes, shall assign any pending land court
9 cases to such judge or judges of the circuit court of the first
10 circuit as deemed appropriate.

11 (k) Nothing in this Act shall terminate, diminish, or
12 impair any existing right in or pertaining to registered land or
13 any existing right to file an action pursuant to 501-212, Hawaii
14 Revised Statutes, but that right may be asserted and enforced in
15 the same manner, to the same extent, and subject to the same
16 limitations as provided under law.

17 SECTION 2. Section 206E-32, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§206E-32 District; established, boundaries.** The Kakaako
20 community development district is established. The district
21 shall include that area bounded by King Street; Piikoi Street
22 from its intersection with King Street to Ala Moana Boulevard;



1 Ala Moana Boulevard, inclusive, from Piikoi Street to its
2 intersection with the Ewa boundary of Ala Moana Park also
3 identified as the Ewa boundary of tax map key 2-3-37:01; the Ewa
4 boundary of tax map key 2-3-37:01 from its intersection with Ala
5 Moana Boulevard to the shoreline; the shoreline from its
6 intersection with the property line representing the Ewa
7 boundary of property identified by tax map key 2-3-37:01 to the
8 property line between Pier 2 and Pier 4; the property line
9 between Pier 2 and Pier 4 from its intersection with the
10 shoreline to Ala Moana Boulevard; Ala Moana Boulevard from its
11 intersection with the property line between lands identified by
12 Pier 2 and Pier 4 to Punchbowl Street; and Punchbowl Street to
13 its intersection with King Street; provided that the following
14 parcels at Pier 1 and Pier 2 shall be deleted from the Kakaako
15 community development district boundaries and conveyed to the
16 department of land and natural resources to be set aside for the
17 department of transportation and the foreign-trade zone division
18 of the department of business, economic development, and
19 tourism, to ensure continued maritime and foreign commerce use:
20 all of lot 3 and parcels 2, 3-A, A, and B of the Forrest Avenue
21 subdivision, as shown on the map filed with the bureau of
22 conveyances of the State of Hawaii as file plan 2335; and lots



1 A-1 and A-2, as shown on map 2, formerly filed in the office of
2 the assistant registrar of the land court [~~of the State of~~
3 ~~Hawaii~~] with land court application 1328; and provided further
4 that all existing easements affecting and appurtenant to the
5 parcels to be deleted from the Kakaako community development
6 district boundaries shall not be affected by this change.

7 The district shall also include that parcel of land
8 identified by tax map key 2-1-14:16, situated mauka of Pier 6
9 and Pier 7 and makai of Nimitz Highway, being the site for the
10 existing Hawaiian Electric power plant and related facilities. "

11 SECTION 3. Section 212-5.5, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§212-5.5[+] **Foreign-trade zone; jurisdiction.**

14 Anything to the contrary notwithstanding, the department of
15 business, economic development, and tourism shall have
16 jurisdiction and administrative authority over the area in the
17 vicinity of Piers 1 and 2 currently being used as a foreign-
18 trade zone. This area [~~is~~] shall be defined as all of parcels 2
19 and 3-A of the Forrest Avenue subdivision, as shown on the map
20 filed in the bureau of conveyances [~~of the State of Hawaii~~], as
21 file plan 2335, and lot A-1, as shown on map 2, formerly filed
22 in the office of the assistant registrar of the land court [~~of~~



1 ~~the State of Hawaii]~~ with land court application 1328; provided
2 that all existing easements affecting and appurtenant to the
3 parcels to be deleted from the Kakaako community development
4 district boundaries shall not be affected by this change."

5 SECTION 4. Section 232-9, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§232-9 Clerk; reporter; custody of records.** [~~The clerk~~
8 ~~of the land court shall be ex officio the clerk of the tax~~
9 ~~appeal court and shall serve as such without additional~~
10 ~~compensation.]~~ (a) The clerk of the tax appeal court shall

11 record all the proceedings of the court and perform, on its
12 behalf, any routine duties [~~which it]~~ that the court may assign
13 to the clerk. Upon the entry of any written order of the court,
14 the clerk shall immediately send a copy thereof to all
15 interested parties and to the department of taxation which shall
16 forthwith correct the assessment list to conform thereto. All
17 records of the court shall be kept in the office of the clerk.
18 Any assistant to the clerk may act in the place of the clerk.

19 (b) Whenever necessary the court shall engage the services
20 of a reporter who shall receive such compensation as may be
21 fixed by it.



1 (c) The clerk shall receive a salary as is appropriated by
2 the legislature. In the absence of such provision the salary
3 shall be paid out of the appropriation for expenses of the
4 court, according to a schedule fixed by the governor.

5 (d) The office of the court shall be in the judiciary
6 building, at Honolulu, but it may sit at such other places as it
7 may deem necessary."

8 SECTION 5. Section 246-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§246-4 Assessment of property; to whom in general.** (a)
11 Real property shall be assessed in its entirety to the owner
12 thereof; provided that where improved residential land has been
13 leased for a term of fifteen years or more, the real property
14 shall be assessed in its entirety to the lessee or the lessee's
15 successor in interest holding the land for [~~such~~] the term under
16 [~~such~~] the lease and the lessee or successor in interest shall
17 be deemed the owner of the real property in its entirety for the
18 purposes of this chapter; provided[~~, however,~~] that the lease
19 and any extension, renewal, assignment, or agreement to assign
20 the lease [~~+1~~] shall [~~have~~]:

21 (1) Have been duly entered into and recorded in the bureau
22 of conveyances [~~or filed in the office of the~~



~~assistant registrar of the land court]~~ prior to
January 1 preceding the tax year for which the
assessment is made[~~7~~]; and

(2) [~~shall provide~~] Provide that the lessee [~~shall~~] pay
all taxes levied on the property during the term of
the lease.

(b) "Improved residential land" as used [~~herein~~] in this
section means land improved with a single family dwelling on it.

(c) For the purposes of this chapter, life tenants,
personal representatives, trustees, guardians, or other
fiduciaries may be, and persons holding government property
under an agreement for the conveyance of the same to such
persons shall be considered as owners during the time any real
property is held or controlled by them as such. Lessees holding
under any government lease shall be considered as owners during
the time any real property is held or controlled by them as
such, as more fully provided in section 246-36; and further,
notwithstanding any provision to the contrary in this chapter,
any tenant occupying government land, whether such occupancy be
on a permit, license, month to month tenancy, or otherwise,
shall be considered as owner where such occupancy has continued
for a period of one year or more, as more fully provided in



1 section 246-36. Persons holding any real property under an
2 agreement to purchase the same, shall be considered as owners
3 during the time the real property is held or controlled by them
4 as such; provided the agreement to purchase [~~+1+~~] shall [~~have~~]:

5 (1) Have been recorded in the bureau of conveyances[~~r~~];
6 and

7 (2) [~~shall provide~~] Provide that the purchasers [~~shall~~]
8 pay the real property taxes levied on the property.

9 (d) Persons holding any real property under a lease for a
10 term to last during the lifetime of the lessee, shall be
11 considered as owners during the time the real property is held
12 or controlled by them as such; provided that the lease [~~+1+~~]
13 shall [~~have~~]:

14 (1) Have been duly entered into and recorded in the bureau
15 of conveyances [~~or filed in the office of the~~
16 ~~assistant registrar of the land court~~] prior to
17 January 1 preceding the tax year for which the
18 assessment is made[~~r~~]; and

19 (2) [~~shall provide~~] Provide that the lessee [~~shall~~] pay
20 all taxes levied on the property during the term of
21 the lease."



1 SECTION 6. Section 441-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§441-15 Removal of dedication.** (a) Property dedicated
4 to cemetery purposes shall be held and used exclusively for
5 cemetery purposes unless and until [~~the~~]:

6 (1) The dedication is removed from all or any part of it
7 by an order and decree of the circuit court of the
8 judicial circuit in which the property is located; and
9 [~~the~~]

10 (2) The decree is filed in the bureau of conveyances [~~or~~
11 ~~land court in a proceeding brought by the~~].

12 (b) The cemetery authority shall commence a proceeding in
13 the circuit court of the judicial circuit in which the property
14 is located for [~~that purpose~~] the purpose described in
15 subsection (a), and upon notice of hearing and proof
16 satisfactory to the court:

17 (1) That no interments were made in or that all interments
18 have been removed from that portion of the property
19 from which dedication is sought to be removed;

20 (2) That the portion of the property from which dedication
21 is sought to be removed is not being used for
22 interment of human remains."



1 SECTION 7. Section 441-17, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§441-17 Existing cemeteries deemed dedicated; extension**
4 **of existing cemeteries.** All existing cemeteries or parts
5 thereof which shall have been lawfully established, and for
6 which a map or plat substantially similar to that required by
7 section 441-3 has been filed or recorded in the bureau of
8 conveyances or in the office of the assistant registrar of the
9 land court, before it was abolished, shall be deemed to have
10 been dedicated as of [+]July 1, 1967[+], to the same extent and
11 with like effect as provided in this chapter."

12 SECTION 8. Section 501-212, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§501-212 Actions for compensation for fraud, mistake,**
15 **etc.** Any person who, without negligence on the person's part,
16 sustains loss or damage, or is deprived of land or of any estate
17 or interest therein, after the original registration of land
18 [~~under this chapter~~], by the registration of any other person as
19 owner of such land, or of any estate or interest therein,
20 through fraud, or in consequence of any error, omission,
21 mistake, or misdescription in any certificate of title or in any
22 entry of memorandum in the registration book, may prosecute a



1 contract claim in the circuit court for the recovery of
 2 compensation for such loss or damage or for such land or estate,
 3 or interest therein; provided that when the person deprived of
 4 land or of any estate, or interest therein, in the manner above
 5 stated, has a remedy for the recovery of the land or of the
 6 estate, or interest therein, the person shall exhaust this
 7 remedy before resorting to the contract claim herein provided.
 8 Nothing in [~~this chapter~~] the former land court registration law
 9 shall be construed to deprive the plaintiff of any tort claim
 10 [~~which~~] that the plaintiff may have against any person for loss
 11 or damage, or deprivation of land, or of any estate or interest
 12 therein. If the plaintiff elects to pursue the plaintiff's tort
 13 claim and also the plaintiff's contract claim [~~under this~~
 14 ~~chapter~~], the contract claim shall be continued to await the
 15 result of the tort claim or shall be deemed alternative
 16 thereto."

17 SECTION 9. Section 501-213, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "**§501-213 Action, parties defendant.** If any contract
 20 claim is prosecuted to recover for loss or damage, or for
 21 deprivation of land, or of any estate or interest therein,
 22 arising wholly through fraud, negligence, omission, mistake, or



1 misfeasance of the registrar[7] or assistant registrar[7] of the
 2 land court, or of any of the examiners of title[7] of the land
 3 court, in the performance of executive or ministerial duties, or
 4 of any of the assistants or clerks[7] of the land court, in the
 5 performance of their respective duties, then the action shall be
 6 brought against the state director of finance, as sole
 7 defendant. If any action is brought to recover for loss or
 8 damage, or deprivation of land, or of any estate or interest
 9 therein, arising wholly through any fraud, negligence, omission,
 10 mistake, or misfeasance of [~~some~~] a person other than the
 11 officers and assistants above named, or arising jointly through
 12 the fraud, negligence, omission, mistake, or misfeasance of
 13 [~~such~~] the other person and any [~~such~~] of the officers and
 14 assistants, then the action shall be brought against both the
 15 director and [~~such~~] the other person as joint defendants."

16 SECTION 10. Section 501-216, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 "**§501-216 State, not liable when.** The State shall not be
 19 liable to pay for any loss, damage, or deprivation [~~occasioned~~]
 20 caused by a breach of trust, whether expressed, implied, or
 21 constructive, by any registered owner who is a trustee, or by
 22 the improper exercise of any power of sale in a mortgage. [~~Not~~



1 ~~shall any]~~ No plaintiff prosecuting a contract claim under [~~this~~
2 ~~chapter]~~ the former land court registration law shall recover as
3 compensation more than the fair market value of the real estate
4 at the time when the plaintiff suffered the loss, damage, or
5 deprivation thereof."

6 SECTION 11. Section 501-217, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§501-217 Limitation of actions.** All actions on contract
9 claims for compensation under [~~this chapter]~~ the former land
10 court registration law by reason of any loss or damage or
11 deprivation of land, or any estate or interest therein, shall
12 [~~be begun]~~ commence within the period of six years from the time
13 when the cause of action accrued, and not afterwards; provided
14 that the plaintiff in an action for the recovery of the land or
15 estate or interest therein in accordance with section 501-213,
16 may bring the action on the contract claim within one year after
17 the termination of that action. The contract claim herein
18 provided shall survive to the personal representatives of the
19 registered owner, unless barred in the registered owner's
20 lifetime, but the proceeds thereof shall be treated as real
21 estate."



1 SECTION 12. Section 501-241, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~+~~]~~§501-241~~[~~+~~] **Leasehold time share interests.** (a)

4 Except as otherwise expressly provided in this part, the
5 requirements of chapter 502 shall apply to a leasehold time
6 share interest [~~and the requirements of this chapter shall not~~
7 ~~apply to such leasehold time share interest~~].

8 (b) [~~Without limiting the generality of subsection (a),~~
9 ~~the following instruments need not be registered pursuant to~~
10 ~~this chapter to be effective and shall be recorded in the bureau~~
11 ~~of conveyances pursuant to chapter 502:~~

- 12 ~~(1) An assignment or other instrument transferring a~~
13 ~~leasehold time share interest;~~
- 14 ~~(2) A mortgage or other instrument granting a lien on a~~
15 ~~leasehold time share interest;~~
- 16 ~~(3) An agreement of sale for the sale of a leasehold time~~
17 ~~share interest. Any such agreement of sale shall be~~
18 ~~subject to section 502-85 [and shall not be subject to~~
19 ~~section 501-101.5];~~
- 20 ~~(4) A lien or notice of lien pertaining to a leasehold~~
21 ~~time share interest in favor of a time share owners~~



- 1 ~~association, an association of apartment owners, or a~~
- 2 ~~similar homeowner's association;~~
- 3 ~~(5) A judgment, decree, order of court, attachment, writ~~
- 4 ~~or other process against a leasehold time share~~
- 5 ~~interest;~~
- 6 ~~(6) A mechanic's or materialman's lien or other lien upon~~
- 7 ~~a leasehold time share interest;~~
- 8 ~~(7) A lis pendens or notice of pendency of action, notice,~~
- 9 ~~affidavit, demand, certificate, execution, copy of~~
- 10 ~~execution, officer's return, or other instrument~~
- 11 ~~relating to a leasehold time share interest and~~
- 12 ~~otherwise required or permitted to be recorded or~~
- 13 ~~registered in connection with the enforcement or~~
- 14 ~~foreclosure of any lien, whether by way of power of~~
- 15 ~~sale pursuant to a power of sale under section 667-5,~~
- 16 ~~or otherwise;~~
- 17 ~~(8) A power of attorney given by the owner of a leasehold~~
- 18 ~~time share interest or the vendor or vendee under an~~
- 19 ~~agreement of sale for the sale of a leasehold time~~
- 20 ~~share interest, a mortgagee or other lienor having a~~
- 21 ~~mortgage or lien upon a leasehold time share interest,~~
- 22 ~~or another party holding a claim or encumbrance~~



1 ~~against or an interest in a leasehold time share~~

2 ~~interest; or~~

3 ~~(9) An instrument assigning, extending, continuing,~~

4 ~~dissolving, discharging, releasing in whole or in~~

5 ~~part, reducing, canceling, extinguishing, or otherwise~~

6 ~~modifying or amending any of the foregoing~~

7 ~~instruments.~~

8 ~~(e)] Every conveyance, lien, attachment, order, decree,~~

9 ~~instrument, or entry affecting a leasehold time share interest~~

10 ~~[which] that would, if registered, filed or recorded, or entered~~

11 ~~in the office of the assistant registrar pursuant to [this~~

12 ~~chapter,] the former land court registration law affect the~~

13 ~~leasehold time share interest to which it relates, if recorded,~~

14 ~~filed, or entered in the bureau of conveyances pursuant to~~

15 ~~chapter 502, shall be notice to all persons from the time of~~

16 ~~[such] the recording, filing, or entering in the bureau of~~

17 ~~conveyances.~~

18 ~~[(d) The assistant registrar shall not be required to make~~

19 ~~a memorandum or other note upon the certificate of title for~~

20 ~~registered land subject to a leasehold time share interest of~~

21 ~~any conveyance, lien, attachment, order, decree, instrument, or~~



1 ~~entry recorded, filed, or entered solely in the bureau of~~
2 ~~conveyances against the leasehold time share interest.~~

3 ~~(c) Notwithstanding subsections (a), (b), and (c), the~~
4 ~~following instruments shall be registered by recording the~~
5 ~~instrument with the assistant registrar and by a brief~~
6 ~~memorandum thereof made by the assistant registrar upon the~~
7 ~~certificate of title, and signed by the assistant registrar:~~

8 ~~(1) The apartment lease, and any amendments thereto, and~~
9 ~~any cancellation or extinguishment thereof;~~

10 ~~(2) Any deed or other instrument conveying the fee~~
11 ~~interest in registered land and any other instrument~~
12 ~~encumbering or otherwise dealing with the fee interest~~
13 ~~in registered land including but not limited to a~~
14 ~~mortgage of the fee interest, an assignment of the~~
15 ~~lessor's interest in a lease, or the designation,~~
16 ~~grant, conveyance, transfer, cancellation, relocation,~~
17 ~~realignment, or amendment of any easement encumbering~~
18 ~~the fee interest;~~

19 ~~(3) If the apartment lease is a sublease, any assignment~~
20 ~~or other conveyance of the sublessor's estate or any~~
21 ~~other leasehold estate which is superior to the~~
22 ~~apartment lease, and any other instrument mortgaging,~~



1 ~~encumbering, or otherwise dealing with the sublessor's~~
2 ~~estate or any other estate which is prior and superior~~
3 ~~to the leasehold time share interest;~~

4 ~~(4) Any other instrument assigning, modifying, canceling,~~
5 ~~or otherwise dealing with an interest in registered~~
6 ~~land which is:~~

7 ~~(A) Less than an estate in fee simple; and~~
8 ~~(B) Prior or superior to the lessee's interest in a~~
9 ~~leasehold time share interest;~~

10 ~~(5) The declaration of condominium property regime or~~
11 ~~similar declaration by whatever name denominated, the~~
12 ~~bylaws of the association of apartment owners, the~~
13 ~~condominium map, any declaration of annexation or~~
14 ~~deannexation, any declaration of merger and any~~
15 ~~instrument effecting a merger, and any amendments to~~
16 ~~any of the foregoing and any cancellation or~~
17 ~~extinguishment thereof;~~

18 ~~(6) Any declaration of covenants, conditions and~~
19 ~~restrictions or similar instrument, by whatever name~~
20 ~~denominated, encumbering the fee, the bylaws of any~~
21 ~~homeowners association, any declaration of annexation~~
22 ~~or deannexation, any amendments and supplements~~



1 ~~thereto, and any cancellation or extinguishment~~
2 ~~thereof;~~

3 ~~(7) Any declaration of covenants, conditions,~~
4 ~~restrictions, or similar instrument, by whatever name~~
5 ~~denominated, establishing the time share plan, the~~
6 ~~bylaws of the time share owners association, any~~
7 ~~declaration of annexation or deannexation, any~~
8 ~~amendments and supplements thereto, and any~~
9 ~~cancellation or extinguishment thereof; and~~

10 ~~(8) Any notice of time share plan, any declaration of~~
11 ~~annexation or deannexation, any amendments thereto,~~
12 ~~and any cancellation or extinguishment thereof.~~

13 ~~(f) The execution or joinder of the lessees of the~~
14 ~~leasehold time share interests shall not be required for the~~
15 ~~registration or notation of instruments which must be registered~~
16 ~~and noted pursuant to subsection (c); provided, however, an~~
17 ~~instrument amending, canceling, or extinguishing an apartment~~
18 ~~lease shall not be registered unless such instrument is:~~

19 ~~(1) Required to be registered by order of a court of~~
20 ~~competent jurisdiction;~~

21 ~~(2) Executed by officers of the time share owners~~
22 ~~association pursuant to any registered time share~~



1 ~~instrument or power of attorney which authorizes the~~
2 ~~time share owners association, its board, or its~~
3 ~~officers, to deal with issues arising under the~~
4 ~~apartment lease; or~~
5 ~~(3) Accompanied by an affidavit of an officer of any title~~
6 ~~insurer or underwritten title company, as defined in~~
7 ~~section 431:20-102, stating that based upon a search~~
8 ~~of the records of title to the apartment lease, the~~
9 ~~parties who executed and acknowledged the instrument~~
10 ~~amending, canceling, or extinguishing the apartment~~
11 ~~lease are the owners of the leasehold time share~~
12 ~~interests in such apartment and/or their duly~~
13 ~~authorized attorney(s) in fact. In the event that the~~
14 ~~affidavit is incorrect and the title insurer or~~
15 ~~underwritten title company acted with gross negligence~~
16 ~~or in bad faith in making the affidavit, the title~~
17 ~~insurer or underwritten title company shall be liable~~
18 ~~to the owners of the leasehold time share interests~~
19 ~~for treble damages and reasonable attorneys' fees and~~
20 ~~costs.~~
21 ~~This section shall not alter the rights of the parties to any~~
22 ~~such instrument.] "~~

1 SECTION 13. Section 501-245, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§501-245[+] **Reference to recorded instruments**
4 **pertaining to leasehold time share interests.** Any instrument
5 assigning, conveying, or otherwise dealing with a leasehold time
6 share interest [~~and which~~] that requires a reference to a prior
7 recorded instrument may satisfy the requirements of section 502-
8 33 by reference to the land court document number [+], in the
9 case of a document recorded pursuant to [~~chapter 501~~] the
10 former land court registration law, or to the book and page or
11 bureau of conveyances document number [+], in the case of a
12 document recorded pursuant to chapter 502[+], of the instrument
13 to which reference is made."

14 SECTION 14. Section 501-246, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "[+]§501-246[+] **Legal incidents of a leasehold time share**
17 **interest.** A leasehold time share interest, and ownership
18 therein, shall in all respects be subject to the same burdens
19 and incidents which attach by law to the lessee's interest in a
20 leasehold apartment that is part of a condominium property
21 regime [~~established on unregistered land~~] and [~~which~~] that is
22 not utilized in a time share plan.



1 Nothing in this part shall, in any way, be construed to
2 relieve a leasehold time share interest or the owners thereof:

3 (1) From any rights incident to the relation of husband
4 and wife;

5 (2) From liability to attachment or mesne process or levy
6 on execution;

7 (3) From liability to any lien of any description
8 established by law on the leasehold time share
9 interest, or in the interest of the owner in the
10 leasehold time share interest;

11 (4) To change the laws of descent;

12 (5) The rights of partition between coparceners and other
13 cotenants;

14 (6) The right to take the same by eminent domain;

15 (7) To relieve such leasehold time share interest from
16 liability to be recovered by a trustee in bankruptcy
17 under the provisions of law relating to preferences;
18 or

19 (8) To change or affect in any way any other rights or
20 liabilities created by law and applicable to the
21 lessee's interest in a leasehold apartment [~~which~~
22 that is part of a condominium property regime



1 ~~[established on unregistered land]~~ and ~~[which]~~ that is
 2 not utilized in a time share plan; except as otherwise
 3 expressly provided in this part."

4 SECTION 15. Section 501-248, Hawaii Revised Statutes, is
 5 amended to read as follows:

6 "~~[+]§501-248[+]~~ **Jurisdiction for matters pertaining to**
 7 **leasehold time share interests.** ~~[The land court shall have~~
 8 ~~jurisdiction over all matters relating to instruments required~~
 9 ~~by this part to be registered pursuant to this chapter. Where~~
 10 ~~any party is in doubt as to whether an instrument must be~~
 11 ~~registered, the question shall be referred to the land court for~~
 12 ~~decision; and the court, after notice to all parties and a~~
 13 ~~hearing, shall enter an order determining the question. Except~~
 14 ~~as expressly otherwise provided in this section, nothing in this~~
 15 ~~part shall deprive the land court of exclusive jurisdiction~~
 16 ~~pursuant to section 501-101 over registered land, or any~~
 17 ~~interest therein, which is prior or superior to the interest of~~
 18 ~~the lessee of a leasehold time share interest.]~~ The circuit
 19 court shall have jurisdiction, pursuant to section ~~[+]603-~~
 20 21.5(a)(3) ~~[+]~~, over~~[+~~

21 ~~(1) All]~~ all matters relating to ~~[instruments required by~~
 22 ~~this part to be recorded pursuant to chapter 502;~~



1 ~~(2) All other matters pertaining to~~ a leasehold time
2 share interest [~~except those in which jurisdiction is~~
3 ~~vested in the land court pursuant to this section];~~
4 and
5 ~~(3) All matters as to which jurisdiction would otherwise~~
6 ~~lie in the land court in part and in the circuit court~~
7 ~~in part]."~~

8 SECTION 16. Section 502-8, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Moneys in the bureau of conveyances special fund
11 shall be used by the bureau of conveyances for the following
12 purposes:

13 (1) Planning, design, construction, and acquisition of
14 equipment, furnishings, and software necessary for the
15 development of the recording system [~~described in this~~
16 ~~chapter and chapter 501];~~

17 (2) Operating, maintaining, and improving the recording
18 system [~~described in this chapter and chapter 501] or~~
19 any other purpose deemed necessary by the bureau of
20 conveyances for the purpose of planning, improving,
21 developing, operating, and maintaining the recording
22 system [~~described in this chapter and chapter 501];~~



- 1 (3) Permanent and temporary staff positions [~~for the~~
- 2 ~~purposes of this chapter and chapter 501~~]; and
- 3 (4) Administrative costs [~~for the purposes of this chapter~~
- 4 ~~and chapter 501~~]."

5 SECTION 17. Section 502-17, Hawaii Revised Statutes, is
 6 amended by amending subsection (f) to read as follows:

7 "(f) All fees collected under this section, except as
 8 provided under [~~sections 501-23.5 and~~] section 502-25 for the
 9 bureau of conveyances special fund, shall be deposited in the
 10 state treasury to the credit of the general fund."

11 SECTION 18. Section 502-20, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "**§502-20 New maps for old.** The registrar at [~~such~~] times
 14 when the original tracings of filed plans [~~and land court maps~~
 15 ~~on file in the bureau of conveyances,~~] are found to be in [~~such~~]
 16 a condition that satisfactory blueprint copies thereof cannot be
 17 made, shall forward [~~any such~~] the map or plan to the department
 18 of accounting and general services [~~of the State,~~] with the
 19 request that another tracing [~~thereof~~] of the map or plan be
 20 made. The department[~~]~~ of accounting and general services, on
 21 receipt of the request and map or plan, shall prepare another
 22 tracing [~~thereof, and shall~~], certify that [~~same~~] the tracing is



1 a true copy of the original on file in the bureau of
2 conveyances, and [~~shall~~] file the same, together with two
3 certified blueprint copies, with the registrar. Any [~~such~~]
4 certified tracing of a map or plan shall thereafter be regarded
5 [~~for all purposes~~] as the original."

6 SECTION 19. Section 502-23, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§502-23 Sale or lease by reference to lots or blocks**
9 **without filing of plans; penalty.** Whoever lays out or
10 subdivides a tract of land into lots or blocks and sells by lot
11 number or block number or leases by lot number or block number
12 any lot or block in any subdivision without first having filed
13 in the bureau of conveyances a plan thereof, drawn in accordance
14 with sections 502-17 to 502-22, or whoever sells by lot number
15 or block number or leases by lot number or block number any lot
16 or block in any subdivision, the plan of which subdivision is
17 not on record or on file in the bureau of conveyances shall be
18 fined not more than \$50 for each lot or block or part thereof so
19 sold or leased. [~~This section and section 502-24 shall not~~
20 ~~apply to land held under chapter 501.~~]"

21 SECTION 20. Section 502-50, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§502-50 How made; proof if not made.** (a) Except as
2 otherwise provided, to entitle any conveyance or other
3 instrument to be recorded, it shall be acknowledged by the
4 person [~~or persons~~] executing the same, before the registrar of
5 conveyances, [~~or~~] the registrar's deputy [~~or~~], before a judge of
6 a court of record, or a notary public of the State. If any
7 person having executed an instrument within the State~~[]~~ dies~~[]~~
8 or departs from the State~~[]~~ without having acknowledged the
9 instrument, or refuses to acknowledge it, or if the person has
10 acknowledged it but such acknowledgment has not been duly
11 certified by the officer before whom made, and for any reason
12 neither proper certification nor a new acknowledgment can be
13 secured, the instrument may be entered as of record on proof of
14 its execution by a subscribing witness thereto before [~~the judge~~
15 ~~of the land court or~~] a judge of a circuit court of the State.
16 If all the subscribing witnesses to the conveyance or other
17 instrument are dead or out of the State, the same may be proved
18 before any court in the State by proving the handwriting of the
19 person executing the same and any subscribing witness. For the
20 purposes of this section a notary public or person who
21 wrongfully undertakes to act as such, may be deemed a
22 subscribing witness.



1 (b) If there is any interlineation, erasure, or other
2 change in an instrument, not initialed as required by section
3 502-61, and for any reason compliance with section 502-61 cannot
4 be secured, the instrument may be proved as provided in
5 subsection (c), or, without the bringing of the proceeding
6 therein provided for, [~~the judge of the land court or~~] a judge
7 of a circuit court may certify that the instrument is entitled
8 to be recorded[~~7~~] if it is established to the judge's
9 satisfaction that [~~such~~] the change was made before execution of
10 the instrument, and the instrument thereupon shall be received
11 for record notwithstanding section 502-63. If the record of any
12 [~~such~~] instrument[~~7~~] received for record by reason of [~~such~~] the
13 certificate, or a transcript thereof, is used in evidence in any
14 proceeding, the burden shall be on the party relying on [~~such~~]
15 the record to prove that [~~such~~] the change was made before
16 execution of the instrument, in any proceeding where such fact
17 is asserted by the party and is in dispute.

18 (c) Any person interested under an instrument [~~which~~] that
19 if properly proved or acknowledged would be entitled to record,
20 may institute a proceeding against the proper parties to obtain
21 a judgment proving [~~such~~] the instrument. The proceeding shall
22 be brought in a circuit court [~~or the land court~~]. If the



1 instrument affects the title to real property the proceeding
2 shall be brought in the judicial circuit where the property is
3 located. If judgment is obtained a certified copy thereof shall
4 be appended to the instrument."

5 SECTION 21. Section 506-8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§506-8 Release of mortgages of real property or fixtures.**

8 (a) The mortgagee of real property or the record assignee of a
9 mortgage interest shall provide to the mortgagor a release of
10 mortgage upon full satisfaction of the mortgage and discharge of
11 any secured debt. The instrument shall be duly acknowledged,
12 [~~shall~~] sufficiently describe the mortgage that has been
13 satisfied, and be recordable in the bureau of conveyances [~~or~~
14 ~~office of the assistant registrar of the land court, or both, as~~
15 appropriate].

16 (b) If the mortgagee or record assignee fails to provide a
17 release of the mortgage as required by this section within sixty
18 days from the date of a request made in writing by any party in
19 interest, and sent by certified or registered mail to the
20 mortgagee or record assignee at its last known address, then:

21 (1) Any title insurer or underwritten title company as
22 defined in section 431:20-102 may execute the release



1 of mortgage on behalf of the mortgagee or record
2 assignee; provided that:

3 (A) The release [~~shall have~~] has attached to it an
4 affidavit setting forth proof, such as a canceled
5 check or written confirmation from the mortgagee,
6 that reasonably establishes that the mortgage
7 debt has been discharged and the mortgage has
8 been fully satisfied; and

9 (B) The release [~~shall be~~] is executed by an officer
10 of the title insurer or underwritten title
11 company[~~-~~

12 ~~In the event that a mortgage is released by a title~~
13 ~~insurer or underwritten title company under the~~
14 ~~provisions of this section but the mortgage debt has~~
15 ~~not been discharged, the mortgage has not been fully~~
16 ~~satisfied, and the title insurer or underwritten title~~
17 ~~company acted with gross negligence or in bad faith in~~
18 ~~releasing the mortgage, the title insurer or~~
19 ~~underwritten title company releasing the mortgage~~
20 ~~shall be liable to the mortgagee for treble damages~~
21 ~~and reasonable attorneys' fees and costs]; or~~



1 (2) The mortgagor or a company issuing title insurance to
 2 a new owner of the mortgaged subject real property or
 3 to another mortgagee of the subject real property, or
 4 the escrow company charged by the mortgagor with
 5 obtaining the release of mortgage, or any other
 6 interested party, as plaintiff, may institute an
 7 action in any circuit court to obtain the release of
 8 mortgage[~~;~~ ~~provided that:~~

9 ~~(A)]~~.

10 (c) The plaintiff in [~~the~~] an action pursuant to
 11 subsection (b) (2) shall mail a copy of the complaint to the
 12 mortgagee or record assignee by certified or registered mail
 13 addressed to the mortgagee or record assignee at its last known
 14 address[~~;~~

15 ~~(B)]~~ If the mortgagee or record assignee does not file
 16 an answer to the complaint within forty-five days
 17 after the mailing, the court, upon receipt of an
 18 affidavit of mailing required by this section and
 19 upon satisfactory proof that the mortgage debt
 20 has been discharged and the mortgage has been
 21 fully satisfied, shall issue an order releasing
 22 the mortgage[~~;~~



1 ~~(C) This~~ The order shall be recorded in the bureau
2 of conveyances [~~or office of the assistant~~
3 ~~registrar of the land court, or both, as~~
4 ~~appropriate; and~~

5 ~~(D)]~~. Upon a finding of good cause by the court, the
6 plaintiff shall be entitled to treble damages and
7 reasonable attorneys' fees and costs incurred in
8 the action unless the court finds that the
9 mortgagee had a reasonable basis for believing
10 that a dispute existed regarding whether the
11 mortgage should have been released.

12 (d) In the event that a mortgage is released by a title
13 insurer or underwritten title company under subsection (b)(1),
14 but the mortgage debt has not been discharged, the mortgage has
15 not been fully satisfied, and the title insurer or underwritten
16 title company acted with gross negligence or in bad faith in
17 releasing the mortgage, the title insurer or underwritten title
18 company releasing the mortgage shall be liable to the mortgagee
19 for treble damages and reasonable attorneys' fees and costs."

20 SECTION 22. Section 507-46, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§507-46 **Priority, record of; satisfaction.** (a) The lien
2 shall ~~[relate]~~:

3 (1) Relate to and take effect from the time of the visible
4 commencement of operations for the improvement; ~~[it~~
5 ~~shall rank]~~

6 (2) Rank equally in priority subject to the provisos
7 hereinafter contained with all other mechanics' and
8 materialmen's liens; and ~~[shall have]~~

9 (3) Have priority over all other liens of any nature,
10 except liens in favor of any branch of the government
11 and mortgages, liens or judgments recorded or filed
12 prior to the time of the visible commencement of
13 operation; provided that ~~[all]~~:

14 (A) All liens for wages for labor performed in the
15 completion of the improvement, but not exceeding
16 \$300 for each claimant, shall have priority as a
17 class over all other mechanics' and materialmen's
18 liens where claims are filed by:

19 ~~[+1]~~ (i) The person who actually performed the labor;

20 ~~[+2]~~ (ii) The person's legal representative in the
21 event of death or incapacity; or



1 court, which shall be noted in the mechanics' lien record[~~, and~~
2 ~~if title to the land involved is registered in the land court~~
3 ~~and the lien did not attach solely to the interest of the lessee~~
4 ~~in one or more leasehold time share interests, it shall also be~~
5 ~~filed in the office of the assistant registrar of the court]."~~

6 SECTION 23. Section 514A-11, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§514A-11 Recordation and contents of declaration. (a)**

9 The bureau of conveyances [~~and the land court~~] shall immediately
10 set up the mechanics and method by which recordation of a master
11 deed or lease and the declaration may be made. Provisions shall
12 be made for the recordation of instruments affecting the
13 individual apartments on subsequent resales, mortgages, and
14 other encumbrances, as is done with all other real estate
15 recordations[~~; provided that land court certificates of title~~
16 ~~shall not be issued for apartments)].~~

17 (b) The declaration to which section 514A-20 refers shall
18 express the following particulars:

19 (1) Description of the land, whether leased or in fee
20 simple, on which the building or buildings and
21 improvements are or are to be located;



- 1 (2) Description of the building or buildings, stating the
2 number of stories and basements, the number of
3 apartments, and the principal materials of which it or
4 they is or are constructed or to be constructed;
- 5 (3) The apartment number of each apartment, and a
6 statement of its location, approximate area, number of
7 rooms, immediate common element to which it has
8 access, designated parking stall if considered a
9 limited common element, and any other data necessary
10 for its proper identification;
- 11 (4) Description of the common elements;
- 12 (5) Description of the limited common elements, if any,
13 stating to which apartments their use is reserved;
- 14 (6) The percentage of undivided interest in the common
15 elements appertaining to each apartment and its owner
16 for all purposes, including voting;
- 17 (7) Statement of the purposes for which the building or
18 buildings and each of the apartments are intended and
19 restricted as to use;
- 20 (8) The name of a person to receive service of process in
21 the cases hereinafter provided, together with the
22 residence or place of business of the person which



1 shall be within the county in which the property is
2 located;

3 (9) Provision as to the percentage of votes by the
4 apartment owners which shall be determinative of
5 whether to rebuild, repair, or restore the property in
6 the event of damage or destruction of all or part of
7 the property;

8 (10) Any further details in connection with the property
9 that the person executing the declaration may deem
10 desirable to set forth consistent with this chapter;

11 (11) The method by which the declaration may be amended,
12 consistent with this chapter; provided that an
13 amendment to the declarations of all condominium
14 projects existing as of May 22, 1991, and all
15 condominium projects created thereafter shall require
16 a vote or written consent of seventy-five per cent of
17 all apartment owners, except as otherwise provided in
18 this chapter; provided further that the declarations
19 of condominium projects having five or fewer
20 apartments may provide for the amendment thereof by a
21 vote or written consent of more than seventy-five per
22 cent of all apartment owners;



1 (12) Description as to any additions, deletions,
2 modifications, and reservations as to the property,
3 including without limitation provisions concerning the
4 merger or addition of later phases of the project. To
5 the extent provided in the declaration, an amendment
6 to the declaration that is made to implement those
7 additions, deletions, modifications, reservations, or
8 merger provisions shall require the vote or written
9 consent of only the declarant or such percentage of
10 apartment owners as is provided in the declaration;
11 and

12 (13) A declaration subject to the penalties set forth in
13 section 514A-49(b) that the condominium property
14 regime is in compliance with all zoning and building
15 ordinances and codes, and all other permitting
16 requirements pursuant to section 514A-1.6, and
17 specifying in the case of a property which includes
18 one or more existing structures being converted to
19 condominium status:

20 (A) Any variances which have been granted to achieve
21 such compliance; and



1 (B) Whether, as the result of the adoption or
 2 amendment of any ordinances or codes, the project
 3 presently contains any legal non-conforming uses
 4 or structures;
 5 except that a property that is registered pursuant to
 6 section 514A-31 shall instead provide this declaration
 7 pursuant to [†]section[†] 514A-40."

8 SECTION 24. Section 514A-19, Hawaii Revised Statutes, is
 9 amended by amending subsection (b) to read as follows:

10 "(b) Upon the recording in the [~~office of the assistant~~
 11 ~~registrar of the land court of the State of Hawaii]~~ bureau of
 12 conveyances of a certificate of merger that indicates that the
 13 fee simple title to the lands of the merged projects are merged,
 14 the [~~assistant~~] registrar shall cancel all existing certificates
 15 of title for the apartments in the condominium projects being
 16 merged and shall issue new certificates of title for the
 17 apartments in the merged project, covering all of the land of
 18 the merged condominium projects. The new certificates of title
 19 for the apartments in the merged condominium project shall
 20 describe, among other things, the new undivided interest in the
 21 land appertaining to each apartment in the merged condominium
 22 projects. The certificate of merger shall at least set forth



1 all of the apartments of the merged condominium projects, their
 2 new undivided interest, and their current [~~certificate of title~~]
 3 document numbers in the common elements of the merged
 4 condominium projects."

5 SECTION 25. Section 514B-44, Hawaii Revised Statutes, is
 6 amended to read as follows:

7 "[+]§514B-44[+] **Contents of deeds or leases of units.** (a)

8 Deeds or leases of units shall adequately describe the property
 9 conveyed or leased if they contain the following information:

- 10 (1) The title and date of the declaration and the
 11 declaration's bureau of conveyances [~~or land court~~]
 12 document number or liber and page [~~numbers~~] number;
- 13 (2) The unit number of the unit conveyed or leased[+] and
 14 the bureau of conveyances document number or liber and
 15 page number for the instrument by which the grantor
 16 acquired title; and
- 17 (3) The common interest appurtenant to the unit conveyed
 18 or leased; provided that the common interest shall be
 19 deemed to be conveyed or encumbered with the unit even
 20 if the common interest is not expressly mentioned in
 21 the conveyance or other instrument, as provided in
 22 section 514B-37[+]



1 ~~(4) For a unit, title to which is registered in the land~~
2 ~~court, the land court certificate of title number for~~
3 ~~the unit, if available; and~~

4 ~~(5) For a unit, title to which is not registered in the~~
5 ~~land court, the bureau of conveyances document number~~
6 ~~or liber and page numbers for the instrument by which~~
7 ~~the grantor acquired title].~~

8 (b) Deeds or leases of units may contain additional
9 information and details deemed desirable and consistent with the
10 declaration and this chapter, including [~~without limitation~~] a
11 statement of any encumbrances on title to the unit that are not
12 listed in the declaration.

13 (c) The failure of a deed or lease to include all of the
14 information specified in this section shall not render it
15 invalid."

16 SECTION 26. Section 516-202, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "~~[+]§516-202[+]~~ **Certification.** (a) The lessor of a
19 sustainable affordable development shall certify the lessor's
20 qualification for the exemption established in section 516-201
21 at the time of the delivery of the first sustainable affordable
22 lease by filing an affidavit with the registrar of the bureau of



1 conveyances [~~or assistant registrar of the land court, as~~
2 ~~appropriate, that:~~

3 ~~(1) Declares].~~ (b) The affidavit shall:

4 (1) Declare the percentage of all the residential lots in
5 the development tract that will have their initial
6 sales prices limited in accordance with directly
7 applicable state or county law, regulation, policy, or
8 agreement, such that households earning not more than
9 the required percentage of the median income for the
10 applicable county will spend no more than the
11 allowable percentage of their gross income for housing
12 costs; provided that if the percentage of residential
13 lots is less than thirty per cent, the state or county
14 agency's approval thereof shall also be set forth;

15 (2) [~~Declares]~~ Declare the percentage of all the
16 residential lots in the development tract that will
17 have their initial sales prices and resale sales
18 prices limited to eighty per cent of the fair market
19 value of the residential lots in fee, including all
20 buildings and improvements, unencumbered by the lease
21 and describing the calculation of the difference;
22 provided that if the percentage of residential lots is



1 less than fifty-one per cent, the state or county
 2 agency's approval thereof shall also be set forth; and
 3 (3) [~~Sets~~] Set forth the provisions in the sustainable
 4 affordable leases that limit the resale price of the
 5 residential lot, including all buildings and
 6 improvements, and entitle the lessor to a share of the
 7 appreciation in the residential lot, including all
 8 buildings and improvements."

9 SECTION 27. Section 664-1, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "**§664-1 Judges as commissioners.** The circuit judges of
 12 the first, second, third, and fifth judicial circuits of the
 13 State for their respective circuits, [~~and the judge of the land~~
 14 ~~court, for the first judicial circuit,~~] sitting without a jury,
 15 shall act as commissioners of boundaries."

16 SECTION 28. Section 231-64, Hawaii Revised Statutes, is
 17 repealed.

18 [~~"§231-64 Tax liens; registered land. If the land has~~
 19 ~~been registered in the land court, the state tax collector shall~~
 20 ~~also send by registered mail a notice of the proposed sale to~~
 21 ~~any person holding a mortgage or other lien registered in the~~
 22 ~~office of the assistant registrar of the land court. The notice~~



1 ~~shall be sent to any such person at the person's last address as~~
2 ~~shown by the records in the office of the registrar, and shall~~
3 ~~be deposited in the mail at least forty-five days prior to the~~
4 ~~date set for the sale."]~~

5 SECTION 29. Section 246-57, Hawaii Revised Statutes, is
6 repealed.

7 [~~§246-57 Same; registered land. If the land has been~~
8 ~~registered in the land court, the tax collector shall also send~~
9 ~~by registered mail a notice of the proposed sale to any person~~
10 ~~holding a mortgage or other lien registered in the office of the~~
11 ~~assistant registrar of the land court. The notice shall be sent~~
12 ~~to any such person at the person's last address as shown by the~~
13 ~~records in the office of the registrar, and shall be deposited~~
14 ~~in the mail at least forty-five days prior to the date set for~~
15 ~~the sale."]~~

16 SECTION 30. Chapter 501, Hawaii Revised Statutes, is
17 amended by repealing the subdivision entitled land court;
18 personnel.

19 SECTION 31. Chapter 501, Hawaii Revised Statutes, is
20 amended by repealing the subdivision entitled commencement of
21 land registration procedure.



1 SECTION 32. Chapter 501, Hawaii Revised Statutes, is
2 amended by repealing the subdivision entitled notice after
3 report.

4 SECTION 33. Chapter 501, Hawaii Revised Statutes, is
5 amended by repealing the subdivision entitled hearings and
6 powers.

7 SECTION 34. Chapter 501, Hawaii Revised Statutes, is
8 amended by repealing the subdivision entitled review of
9 decisions and decrees.

10 SECTION 35. Chapter 501, Hawaii Revised Statutes, is
11 amended by repealing the subdivision entitled decrees.

12 SECTION 36. Chapter 501, Hawaii Revised Statutes, is
13 amended by repealing the subdivision entitled legal incidents of
14 registered land.

15 SECTION 37. Chapter 501, Hawaii Revised Statutes, is
16 amended by repealing the subdivision entitled voluntary dealing
17 with land after original registration.

18 SECTION 38. Chapter 501, Hawaii Revised Statutes, is
19 amended by repealing the subdivision entitled mortgages.

20 SECTION 39. Chapter 501, Hawaii Revised Statutes, is
21 amended by repealing the subdivision entitled leases.



1 SECTION 40. Chapter 501, Hawaii Revised Statutes, is
2 amended by repealing the subdivision entitled trusts.

3 SECTION 41. Chapter 501, Hawaii Revised Statutes, is
4 amended by repealing the subdivision entitled pending actions;
5 judgments and partitions; recording.

6 SECTION 42. Chapter 501, Hawaii Revised Statutes, is
7 amended by repealing the subdivision entitled eminent domain;
8 recording.

9 SECTION 43. Chapter 501, Hawaii Revised Statutes, is
10 amended by repealing the subdivision entitled descent and
11 devise.

12 SECTION 44. Chapter 501, Hawaii Revised Statutes, is
13 amended by repealing the subdivision entitled lost duplicate
14 certificates.

15 SECTION 45. Chapter 501, Hawaii Revised Statutes, is
16 amended by repealing the subdivision entitled adverse claims
17 after original registration.

18 SECTION 46. Chapter 501, Hawaii Revised Statutes, is
19 amended by repealing the subdivision entitled compelling
20 surrender of duplicate certificate.



1 SECTION 47. Chapter 501, Hawaii Revised Statutes, is
2 amended by repealing the subdivision entitled amendment and
3 alteration of certificate of title.

4 SECTION 48. Chapter 501, Hawaii Revised Statutes, is
5 amended by repealing the subdivision entitled service of notice
6 after registration.

7 SECTION 49. Chapter 501, Hawaii Revised Statutes, is
8 amended by repealing the subdivision entitled penalty.

9 SECTION 50. Section 501-211, Hawaii Revised Statutes, is
10 repealed.

11 [~~"§501-211 Fees required for protection against loss or
12 damage. There shall be paid to the registrar upon the original
13 registration of land under this chapter, under absolute or
14 qualified ownership, one-tenth of one per cent of the assessed
15 value of the land and improvements on the basis of the last
16 assessment for taxation.~~

17 ~~Where the land sought to be registered was not separately
18 assessed at the time of the last assessment for taxation, the
19 value of the same shall be as found by the court as of July 1
20 preceding the date on which the application was filed. The
21 court may appoint one or more appraisers at such rates of pay as
22 it deems just, the cost to be taxed against the applicant.~~



1 ~~All moneys received by the registrar under this section~~
2 ~~shall be paid to the director of finance as a realization to the~~
3 ~~general fund."]~~

4 SECTION 51. Section 501-218, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§501-218 Schedule of fees. (a) Except where otherwise~~
7 ~~provided by the supreme court of the State of Hawaii that shall~~
8 ~~be empowered to amend or add to the schedule from time to time,~~
9 ~~or fees for services by the bureau of conveyances set by rules~~
10 ~~adopted by the department of land and natural resources,~~
11 ~~pursuant to chapter 91, the fees payable under this chapter are~~
12 ~~as follows:~~

13 ~~(1) For every application filed pursuant to this chapter,~~
14 ~~including indexing and recording the application, and~~
15 ~~transmitting to registrar, when filed with assistant~~
16 ~~registrar, \$3.~~

17 ~~(2) For every plan filed, \$1.~~

18 ~~(3) For examining title, \$10 and two-tenths of one per~~
19 ~~cent of the assessed value of the land and~~
20 ~~improvements on the basis of the last assessment for~~
21 ~~taxation, or the value of the land as determined under~~



- 1 ~~section 501-211 when the land was not separately~~
- 2 ~~assessed.~~
- 3 ~~(4) For verifying and checking map on the ground, for lots~~
- 4 ~~of one acre or less, \$25; an addition of \$1 an acre or~~
- 5 ~~fraction thereof for all area over one acre and up to~~
- 6 ~~one hundred acres; an addition of 50 cents an acre or~~
- 7 ~~fraction thereof for all area over one hundred acres~~
- 8 ~~and up to one thousand acres; an addition of 25 cents~~
- 9 ~~an acre or fraction thereof for all area over one~~
- 10 ~~thousand acres.~~
- 11 ~~(5) For checking survey and map as to form and~~
- 12 ~~mathematical correctness, but not on the ground, \$3 an~~
- 13 ~~hour.~~
- 14 ~~(6) For approving subdivision of registered land, and for~~
- 15 ~~checking the form and mathematical correctness, but~~
- 16 ~~not on the ground, \$3 an hour.~~
- 17 ~~(7) For all services by a sheriff or other police officer~~
- 18 ~~under this chapter, the same fees as are now provided~~
- 19 ~~by law for each service.~~
- 20 ~~(8) For each instrument affecting a title not reported in~~
- 21 ~~applicant's filed abstract of title, \$2.~~
- 22 ~~(9) For filing an amended application, \$1.~~



- 1 ~~(10) For each notice by publication, 25 cents.~~
- 2 ~~(11) For entering any general default, \$1.~~
- 3 ~~(12) For filing any answer, \$1, to be paid by the party~~
4 ~~filing the answer.~~
- 5 ~~(13) For every subpoena, \$1.~~
- 6 ~~(14) For swearing each witness, 10 cents.~~
- 7 ~~(15) For entering any discontinuance, \$1.~~
- 8 ~~(16) For filing notice of appeal, \$30.~~
- 9 ~~(17) For entry of order dismissing application, or decree~~
10 ~~of registration, and sending memorandum to assistant~~
11 ~~registrar, \$1.~~
- 12 ~~(18) For copy of decree of registration, \$1.~~
- 13 ~~(19) For filing any petition after original registration,~~
14 ~~\$1; an addition of 25 cents for each exhibit attached.~~
- 15 ~~(20) For filing any order after original registration, \$5.~~
- 16 ~~(21) In all cases not expressly provided for by law, the~~
17 ~~fees of all public officers for any official duty or~~
18 ~~service under this chapter shall be at a rate~~
19 ~~established by the court.~~
- 20 ~~(22) For any application made by or in the name of the~~
21 ~~State, or any political subdivision of the State, any~~
22 ~~proceedings upon the application or any dealing with~~



1 ~~registered land by the State, or any political~~
2 ~~subdivision of the State, as owner, no fees shall be~~
3 ~~charged.~~

4 ~~(b) For recordation of the document of which the United~~
5 ~~States, State of Hawaii, or any county of the State of Hawaii,~~
6 ~~is the grantee, no fees shall be charged."]~~

7 SECTION 52. Section 501-219, Hawaii Revised Statutes, is
8 repealed.

9 ~~["§501-219] Sale of land court maps. The department of~~
10 ~~accounting and general services may sell land court maps, for a~~
11 ~~reasonable fee as established by rules adopted under chapter~~
12 ~~91."]~~

13 SECTION 53. Section 501-243, Hawaii Revised Statutes, is
14 repealed.

15 ~~["§501-243] Dual recording involving leasehold time share~~
16 ~~interests. Nothing in this part shall prevent or prohibit the~~
17 ~~registration of an instrument which assigns or affects both:~~
18 ~~(1) One or more leasehold time share interests; and~~
19 ~~(2) One or more interests in registered land other than a~~
20 ~~leasehold time share interest."]~~

21 SECTION 54. Section 501-244, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§501-244] Assignment of leasehold time share interest.~~

2 ~~Any instrument which first assigns or otherwise conveys a~~
3 ~~leasehold time share interest shall refer to the land court~~
4 ~~document number of the apartment lease or the most recent~~
5 ~~assignment of the whole thereof, whichever is later. Any~~
6 ~~subsequent instrument of assignment or conveyance shall refer to~~
7 ~~the book and page or bureau of conveyances document number of~~
8 ~~the prior instrument of assignment or conveyance for the~~
9 ~~leasehold time share interest acquired."]~~

10 SECTION 55. Section 501-247, Hawaii Revised Statutes, is
11 repealed.

12 ~~["§501-247] Voluntary dealing with a leasehold time share~~
13 ~~interest. (a) Except as otherwise provided in this part, an~~
14 ~~owner of a leasehold time share interest may convey, mortgage,~~
15 ~~sublease, charge, or otherwise deal with the same as if the~~
16 ~~condominium to which it pertains was established on unregistered~~
17 ~~land. The owner may use forms of assignments, mortgages, or~~
18 ~~other voluntary instruments like those now in use and sufficient~~
19 ~~in law for the purpose intended.~~

20 ~~(b) Notwithstanding subsection (a) and section 502-83, no~~
21 ~~assignment, mortgage, or other voluntary instrument (except a~~
22 ~~will, a lease for a term not exceeding one year, or an~~



1 ~~instrument required by this part to be registered in the land~~
 2 ~~court and which is so registered) purporting to assign or affect~~
 3 ~~a leasehold time share interest, shall take effect as a~~
 4 ~~conveyance or bind the leasehold time share interest, but shall~~
 5 ~~operate only as a contract between the parties, and as evidence~~
 6 ~~of authority to the registrar or assistant registrar. The act~~
 7 ~~of recordation pursuant to chapter 502 shall be the operative~~
 8 ~~act to assign or affect the leasehold time share interest."]~~

9 SECTION 56. Section 506-6, Hawaii Revised Statutes, is
 10 repealed.

11 [~~"§506-6 Registered land. Nothing in this chapter shall~~
 12 ~~be deemed to modify or amend chapter 501."]~~

13 SECTION 57. All rights, powers, functions, and duties of
 14 the land court are transferred to the bureau of conveyances.

15 All officers and employees whose functions are transferred
 16 by this Act shall be transferred with their functions and shall
 17 continue to perform their regular duties upon their transfer,
 18 subject to the state personnel laws and this Act.

19 No officer or employee of the State having tenure shall
 20 suffer any loss of salary, seniority, prior service credit,
 21 vacation, sick leave, or other employee benefit or privilege as
 22 a consequence of this Act, and such officer or employee may be



1 transferred or appointed to a civil service position without the
2 necessity of examination; provided that the officer or employee
3 possesses the minimum qualifications for the position to which
4 transferred or appointed; and provided that subsequent changes
5 in status may be made pursuant to applicable civil service and
6 compensation laws.

7 An officer or employee of the State who does not have
8 tenure and who may be transferred or appointed to a civil
9 service position as a consequence of this Act shall become a
10 civil service employee without the loss of salary, seniority,
11 prior service credit, vacation, sick leave, or other employee
12 benefits or privileges and without the necessity of examination;
13 provided that such officer or employee possesses the minimum
14 qualifications for the position to which transferred or
15 appointed.

16 If an office or position held by an officer or employee
17 having tenure is abolished, the officer or employee shall not
18 thereby be separated from public employment, but shall remain in
19 the employment of the State with the same pay and classification
20 and shall be transferred to some other office or position for
21 which the officer or employee is eligible under the personnel



1 laws of the State as determined by the head of the department or
2 the governor.

3 SECTION 58. All appropriations, records, equipment,
4 machines, files, supplies, contracts, books, papers, documents,
5 maps, and other personal property heretofore made, used,
6 acquired, or held by the land court relating to the functions
7 transferred to the bureau of conveyances shall be transferred
8 with the functions to which they relate.

9 SECTION 59. All appropriations, records, equipment,
10 machines, files, supplies, contracts, books, papers, documents,
11 maps, and other personal property heretofore made, used,
12 acquired, or held by the land court relating to the adjudication
13 of any registration application that is pending a land court
14 decree as of December 31, 2008, transferred to the circuit court
15 to proceed as a quiet title action pursuant to section 1 of this
16 Act shall be transferred with the functions to which they
17 relate.

18 SECTION 60. All rules, policies, procedures, guidelines,
19 and other material adopted or developed by the land court to
20 implement provisions of the Hawaii Revised Statutes which are
21 reenacted or made applicable to the bureau of conveyances by
22 this Act, shall remain in full force and effect until amended or



1 repealed by the board of land and natural resources pursuant to
2 chapter 91, Hawaii Revised Statutes. In the interim, every
3 reference to the land court or registrar of the land court in
4 those rules, policies, procedures, guidelines, and other
5 material is amended to refer to the bureau of conveyances or the
6 registrar of conveyances as appropriate.

7 SECTION 61. All acts passed by the legislature during this
8 regular session of 2008, whether enacted before or after the
9 effective date of this Act, shall be amended to conform with
10 this Act unless such acts specifically provide that this Act is
11 being amended.

12 SECTION 62. The legislative reference bureau shall prepare
13 proposed conforming legislation to make necessary amendments to
14 statutes affected by this Act. The legislative reference bureau
15 shall transmit such proposed legislation to the legislature not
16 later than twenty days prior to the convening of the regular
17 session of 2009.

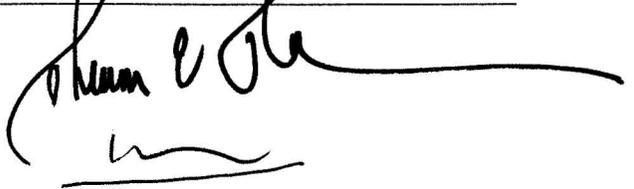
18 SECTION 63. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.



H.B. NO. 2307

1 SECTION 64. This Act shall take effect on July 1, 2008.

2

INTRODUCED BY: Steve Caldwell


JAN 15 2008



Report Title:

Land Court; Abolition

Description:

Abolishes land court and integrates the records of land court with records of bureau of conveyances. Repeals sections of land court law including repeal of section 501-87, HRS, that prohibits adverse possession or prescription of registered land. Provides mechanism for registered land and associated documents to be transferred to bureau of conveyances by 01/01/09, or as soon thereafter as is practicable. Prohibits any additional registration applications after effective date of Act. Prohibits any additional land court registration after 12/31/08. Requires that any registration application still pending as of 12/31/08 be transferred to circuit court to proceed as quiet title action. Establishes clerk of the tax appeal court. Makes bureau of conveyance law apply to all leasehold time share interests. Provides for transfer of records, files, etc. to bureau of conveyances, or circuit court, as appropriate. Makes only those conforming amendments that require substantive changes or that contain substantial technical amendments. Requires legislative reference bureau to prepare proposed conforming legislation to make any additional necessary amendments to statutes affected by Act.

