
A BILL FOR AN ACT

RELATING TO BUREAU OF CONVEYANCES.

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

1 SECTION 1. The joint legislative investigative committee
2 established pursuant to Senate Concurrent Resolution No. 226,
3 adopted during the regular session of 2007, identified serious
4 shortcomings relating to the bureau of conveyances' operational
5 mismanagement, potential loss of revenue, and potential areas of
6 vulnerability. The joint legislative investigative committee
7 recognized that automation of certain functions in the bureau of
8 conveyances may address one of the major underlying problems:
9 work backlog. Modernizing through electronic recordation will
10 improve efficiency; however, a gradual approach will prevent the
11 existing work backlog from increasing due to a shift in
12 procedures.

13 The purpose of this Act is to ease the backlog in bureau of
14 conveyances and land court recording and registration by:

- 15 (1) Transferring fee simple time share interest from the
16 land court system (Torrens) to the regular system;



1 (2) Allowing an owner of a fee interest in land registered
2 in the land court system to transfer the interest to
3 the regular system;

4 (3) Allowing electronic recording of instruments in the
5 land court and regular system; and

6 (4) Establishing a pilot program to implement electronic
7 recording of fee simple time share interests.

8 SECTION 2. Chapter 501, Hawaii Revised Statutes, is
9 amended by adding a new part to be appropriately designated and
10 to read as follows:

11 **"PART II. DEREGISTRATION**

12 **§501-A Deregistration of fee interests.** (a) Upon
13 presentation to the assistant registrar for filing or recording
14 of any instrument, document, or paper conveying or encumbering a
15 fee time share interest or any interest therein, or upon the
16 written request under subsection (d) of the registered owner of
17 the fee interest in registered land, the assistant registrar
18 shall not register the same, but shall:

19 (1) Record in the bureau of conveyances, pursuant to
20 chapter 502, the current certificate of title for the
21 fee interest in the registered land or the registered



1 land in which the fee time share interest includes an
2 undivided interest; provided that:

3 (A) Prior thereto, the assistant registrar shall note
4 on the certificate of title all documents and
5 instruments that have been accepted for
6 registration and that have not yet been noted on
7 the certificate of title; and

8 (B) If separate certificates of title have been
9 issued for individual fee time share interests in
10 the time share plan, the assistant registrar
11 shall record in the bureau of conveyances,
12 pursuant to chapter 502, the certificate of title
13 for each fee time share interest in the time
14 share plan;

15 (2) Record in the bureau of conveyances, pursuant to
16 chapter 502, the instrument, document, paper, or
17 written request for deregistration presented to the
18 assistant registrar for filing or recording. The
19 instrument, document, paper, or request shall be
20 recorded immediately after the certificate or
21 certificates of title; and

22 (3) Cancel the certificate of title.



1 (b) The registrar or assistant registrar shall note the
2 recordation and cancellation of the certificate of title in the
3 registration book and in the records of the application for
4 registration of the land that is the subject of the certificate
5 of title. The notation shall state the bureau of conveyances
6 document number for the certificate of title so recorded, the
7 certificate of title number, and the land court application
8 number, map number, and lot number for the land that is the
9 subject of the certificate of title so recorded.

10 (c) No order of court shall be required prior to or in
11 connection with the performance of any of the foregoing actions.

12 (d) The registered owner of the fee interest in registered
13 land may submit a written request to the assistant registrar to
14 deregister the land under this chapter. Any written request for
15 deregistration shall include proof of title insurance in the
16 amount of the value of the land to be deregistered and a written
17 waiver of all claims against the State relating to the title to
18 the land arising after the date of deregistration.

19 **§501-B Effect of deregistration.** (a) Upon the
20 recordation in the bureau of conveyances of a certificate of
21 title pursuant to section 501-A:



(1) The deregistered land shall no longer be registered land for purposes of this chapter;

(2) No instruments, documents, or papers relating solely to deregistered land shall be filed or recorded with the assistant registrar pursuant to this chapter, but shall instead be recorded in the bureau of conveyances pursuant to chapter 502; and

(3) Except as otherwise expressly provided in this chapter, chapter 502 shall apply to the deregistered land.

(b) Recordation of a certificate of title pursuant to section 501-A shall not disturb the effect of any proceedings in the land court where the question of title has been determined. All proceedings had in connection with the registration of title that relate to the settlement or determination of title before that recording, and all provisions of this chapter that relate to the status of the title, shall have continuing force and effect with respect to the period of time that title remained under the land court system. Those provisions giving rise to a right of action for compensation from the State, including any limits on and conditions to the recovery of compensation and the State's rights of subrogation with respect thereto, shall also



1 continue in force and effect with respect to the period of time
2 that title remained under the land court system.

3 **§501-C Effect of deregistration in specific cases.**

4 Notwithstanding section 501-B(a)(3), the following documents,
5 instruments, and papers need not be registered pursuant to this
6 chapter to be effective and shall be recorded in the bureau of
7 conveyances pursuant to chapter 502:

8 (1) Any document, instrument, or paper assigning,
9 extending, continuing, dissolving, discharging,
10 releasing in whole or in part, reducing, canceling,
11 extinguishing, or otherwise modifying or amending any
12 of the following documents, instruments, or papers
13 that have been registered pursuant to this chapter and
14 that pertain to deregistered land:

15 (A) A mortgage;

16 (B) An agreement of sale for the sale of a fee time
17 share interest or interest in other deregistered
18 land. After the recordation of the certificate
19 of title, any agreement of sale shall be subject
20 to section 502-85 and shall not be subject to
21 section 501-101.5;



1 (C) A correction deed, correction mortgage, or other
2 document, instrument, or paper correcting a
3 document, instrument, or paper registered
4 pursuant to this chapter;

5 (D) A lien or claim of lien on a fee time share
6 interest held or claimed by a time share owners
7 association, an association of apartment owners,
8 or other homeowners' association or a lien or
9 claim on an interest in other deregistered land
10 held by a lienor or person claiming a lien;

11 (E) A lease that demises a fee time share interest or
12 interest in other deregistered land;

13 (F) An order of court, attachment, writ, or other
14 process against a fee time share interest or
15 interest in other deregistered land;

16 (G) A mechanic's or materialman's lien or other lien
17 upon a fee time share interest or interest in
18 other deregistered land;

19 (H) A lis pendens or notice of pendency of action,
20 notice, affidavit, demand, certificate,
21 execution, copy of execution, officer's return,
22 or other instrument relating to a fee time share



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



1 permitted to be recorded or registered in connection
2 with the enforcement or foreclosure of any lien,
3 whether by way of power of sale pursuant to a power of
4 sale under section 667-5, or otherwise; and

5 (3) Any declaration annexing property to, any declaration
6 deannexing property from, any amendment or supplement
7 to, correction of, or release or termination of, any
8 of the following documents, instruments, or papers
9 that have been registered pursuant to this chapter and
10 that pertain to deregistered land:

11 (A) A declaration of covenants, conditions,
12 restrictions, or similar instrument, by whatever
13 name denominated, establishing or governing a
14 time share plan, or the bylaws of a time share
15 owners association, notice of time share plan, or
16 other time share instrument;

17 (B) A declaration of condominium property regime or
18 similar declaration by whatever name denominated,
19 the bylaws of the association of apartment
20 owners, the condominium map, any declaration of
21 merger and any instrument effecting a merger;
22 provided that if only some of the condominium



1 apartments are included in the time share plan,
2 then it shall be necessary to register, and to
3 note on the certificate of title for any
4 apartment not included in the time share plan:

- 5 (i) Any declaration annexing property to the
6 condominium property regime;
- 7 (ii) Any declaration deannexing property from the
8 condominium property regime;
- 9 (iii) Any instrument effecting a merger of two or
10 more condominium projects or two or more
11 phases of a condominium project; and
- 12 (iv) Any document, instrument, or paper amending,
13 supplementing, correcting, releasing, or
14 terminating any of the documents listed in
15 subparagraph (B)(i) through (iii), the
16 declaration of condominium property regime,
17 the bylaws of the association of apartment
18 owners, the condominium map, or any
19 declaration of merger; and
- 20 (C) A declaration of covenants, conditions,
21 restrictions, or similar instrument, by whatever
22 name denominated, the bylaws of any homeowners



1 association, any declaration of annexation or
2 deannexation, any amendments and supplements
3 thereto, and any cancellation or extinguishment
4 thereof, any declaration of merger and any
5 instrument effecting a merger; provided that if
6 only some of the parcels of land covered by the
7 declaration constitutes deregistered land, and if
8 one or more of the remaining parcels constitute
9 registered land, then it shall be necessary to
10 register, and to note on the certificate of title
11 for any registered land:

12 (i) Any declaration annexing property to the
13 declaration;

14 (ii) Any declaration deannexing property from the
15 operation of the declaration; and

16 (iii) Any document, instrument, or paper amending,
17 supplementing, correcting, releasing, or
18 terminating any of the documents listed in
19 subparagraph (C)(i) or (ii), the declaration
20 of covenants, conditions, restrictions, or
21 the bylaws of the homeowners association.



1 **§501-D Chain of title of deregistered land.** (a) A

2 certificate of title recorded pursuant to section 501-A shall
3 constitute a new chain of record title in the registered owner
4 of any estate or interest as shown on the certificate of title
5 so recorded, subject only to the following:

6 (1) The estates, mortgages, liens, charges, instruments,
7 documents, and papers noted on the certificate of
8 title so recorded;

9 (2) Liens, claims, or rights arising or existing under the
10 laws or Constitution of the United States, which the
11 statutes of this State cannot require to appear of
12 record in the registry; provided that notices of liens
13 for internal revenue taxes payable to the United
14 States, and certificates affecting the liens, shall be
15 deemed to fall within this paragraph only if the same
16 are recorded in the bureau of conveyances as provided
17 by chapter 505;

18 (3) Unpaid real property taxes assessed against the land
19 and improvements covered by the certificate of title
20 as recorded, with interest, penalties, and other
21 additions to the tax, which, unless a notice is filed
22 and registered as provided by county real property tax



1 ordinance, shall be for the period of three years from
2 and after the date on which the lien attached, and if
3 proceedings for the enforcement or foreclosure of the
4 tax lien are brought within the period, until the
5 termination of the proceedings or the completion of
6 the tax sale;

7 (4) State tax liens, if the same are recorded in the
8 bureau of conveyances as provided by section 231-33;

9 (5) Any public highway, or any private way laid out under
10 the provisions of law, when the certificate of title
11 does not state that the boundary of the way has been
12 determined;

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

18 (7) Any liability to assessments for betterments, or
19 statutory liability that may attach to land as a lien
20 prior to or independent of, the recording or
21 registering of any paper of the possibility of a lien
22 for labor or material furnished in the improvement of



1 the land; provided that the priority of any liability
2 and the lien therefor (other than for labor and
3 material furnished in the improvement of the land,
4 which shall be governed by section 507-43) shall cease
5 and terminate three years after the liability first
6 accrues unless notice thereof, signed by the officer
7 charged with collection of the assessments or
8 liability, setting forth the amount claimed, the date
9 of accrual, and the land affected, is recorded in the
10 bureau of conveyances pursuant to chapter 502 within
11 the three-year period; and provided further that if
12 there are easements or other rights, appurtenant to a
13 parcel of deregistered land, which for any reason have
14 failed to be deregistered, the easements or rights
15 shall remain so appurtenant notwithstanding the
16 failure, and shall be held to pass with the
17 deregistered land until cut off or extinguished in any
18 lawful manner;

19 (8) The possibility of reversal or vacation of the decree
20 of registration upon appeal;

21 (9) Any encumbrance not required to be registered as
22 provided in sections 501-241 to 501-248 and relating



1 to a leasehold time share interest or leasehold
2 interest in deregistered land; and

3 (10) Child support liens that are created pursuant to order
4 or judgment filed through judicial or administrative
5 proceeding in this State or in any other state, the
6 recording of which shall be as provided by chapter
7 576D.

8 (b) For purposes of this section, an encumbrance shall be
9 deemed sufficiently noted on a certificate of title if the
10 notation:

11 (1) References a document by name or number that contains
12 an encumbrance; and

13 (2) Indicates that the referenced document contains an
14 encumbrance to which the deregistered land is subject.

15 (c) All instruments, documents, and papers noted on a
16 certificate of title recorded pursuant to section 501-A shall
17 have the same force and effect as if they had been recorded in
18 the bureau of conveyances pursuant to chapter 502 as of the
19 date, hour, and minute of reception noted on the certificate of
20 title pursuant to section 501-107; provided that:

21 (1) No instrument, document, or paper shall have any
22 greater or other effect after the certificate of title



1 is recorded pursuant to section 501-A, as constructive
2 notice or otherwise, than it had or acquired at the
3 time it was registered pursuant to this chapter or
4 made; and

5 (2) Nothing in this part shall be construed as giving any
6 greater or other effect, as constructive notice or
7 otherwise, to any instrument, document, or paper
8 recorded in the bureau of conveyances pursuant to
9 chapter 502 prior to the recordation of the
10 certificate of title pursuant to section 501-A as to
11 any land, than was provided by the laws of this State
12 (including this chapter and other laws regarding
13 registered land) in effect at the time the instrument,
14 document, or paper was recorded.

15 (d) If a certificate of title recorded pursuant to section
16 501-A relates to more than one fee time share interest or more
17 than one interest in other deregistered land, then subsection
18 (a) shall apply to each interest separately and only those items
19 described in subsection (a) that encumbered a particular
20 interest prior to recordation of the certificate of title will
21 continue to encumber that interest after the recordation.



1 **§501-E Status of fee time share interest and other**
2 **interest in deregistered land as real property.** Nothing in this
3 part shall affect the status of a fee time share interest or
4 other interest in deregistered land as real property.

5 **§501-F Dual recording involving deregistered land.**
6 Nothing in this part shall prevent or prohibit the registration
7 of an instrument that conveys, assigns, or affects both
8 registered land and deregistered land.

9 **§501-G Reference to prior recorded instrument.** Any
10 instrument conveying or otherwise dealing with deregistered land
11 and which requires a reference to a prior recorded instrument
12 may satisfy the requirements of section 502-33 by reference to
13 the land court document number (in the case of a document
14 recorded pursuant to chapter 501) or to the book and page or
15 bureau of conveyances document number (in the case of a document
16 recorded pursuant to chapter 502) of the instrument to which
17 reference is made.

18 **§501-H Legal incidents of deregistered land.** Nothing in
19 this part shall in any way be construed to relieve deregistered
20 land or the owners of deregistered land from:

- 21 (1) Any rights incident to the relation of husband and
22 wife;



- 1 (2) Liability to attachment or mesne process or levy on
2 execution;
- 3 (3) Liability to any lien of any description established
4 by law on the deregistered land, or in the interest of
5 the owner in the deregistered land;
- 6 (4) The right to change the laws of descent;
- 7 (5) The rights of partition between coparceners and other
8 cotenants;
- 9 (6) The right to take the same by eminent domain;
- 10 (7) Liability to be recovered by a trustee in bankruptcy
11 under the provisions of law relating to preferences;
- 12 (8) Any other rights or liabilities created by law and
13 applicable to the owner of a condominium apartment
14 that is part of a condominium property regime
15 established on registered land and which is not used
16 in a time share plan, except as otherwise expressly
17 provided in this part; or
- 18 (9) Any other rights or liabilities created by law and
19 applicable to the deregistered land, except as
20 otherwise expressly provided in this part.

21 **§501-I Jurisdiction for matters pertaining to deregistered**
22 **land.** The land court shall have jurisdiction over all matters



1 relating to instruments required by this part to be registered
2 pursuant to this chapter. Where any party is in doubt as to
3 whether an instrument must be registered, the question shall be
4 referred to the land court for decision; and the court, after
5 notice to all parties and a hearing, shall enter an order
6 determining the question. Notice to the owner of a fee time
7 share interest shall be given by mailing notice to the
8 association of time share owners required to be established
9 pursuant to section 514E-29, and the association shall represent
10 the owners in any matters and proceedings, without prejudice to
11 the right of any individual owner to appear and be heard as a
12 separate party. Except as expressly provided in this section,
13 nothing in this part shall deprive the land court of exclusive
14 jurisdiction pursuant to section 501-1 over registered land, or
15 any interest therein, other than registered land that becomes
16 deregistered land. The circuit court shall have jurisdiction,
17 pursuant to section 603-21.5(a)(3), over:

- 18 (1) All matters relating to instruments required by this
19 part to be recorded pursuant to chapter 502;
20 (2) All other matters pertaining to deregistered land
21 (except those in which jurisdiction is vested in the
22 land court pursuant to this section); and



(3) All matters as to which jurisdiction would otherwise lie in the land court in part and in the circuit court in part."

SECTION 3. Chapter 501, Hawaii Revised Statutes, is amended by designating sections 501-1 to 501-248 as part I, entitled:

"PART I. GENERAL PROVISIONS"

SECTION 4. Chapter 657, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§657- Deregistered land. In no event shall the period of limitations provided in this part begin prior to the recordation of the certificate of title for deregistered land."

SECTION 5. Section 501-20, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read as follows:

"Deregistered land" means land that is the subject of a certificate of title recorded pursuant to section 501-A.

"Fee time share interest" means a time share interest, other than a leasehold time share interest, that consists of or includes a present, undivided interest in registered land,



1 including an undivided interest in one or more fee simple
2 condominium apartments established in whole or in part on
3 registered land."

4 2. By amending the definition of "signature" to read:

5 "Signature" means the name of a person as written by the
6 individual [Ø], the affixing of a mark or finger or toe
7 print[-], or electronic signature as that term is defined in
8 chapter 489E."

9 SECTION 6. Section 501-71, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§501-71 Decree of registration; conditional when;**
12 **quieting title, exceptions; reopened when. (a)** If the court
13 after a hearing finds that the applicant, at the time of filing
14 an application, or subsequently, had title, as stated in the
15 application, that the title is proper for registration, and that
16 since filing the application, the title of the applicant has not
17 been encumbered in any manner, then a decree of confirmation and
18 registration as prayed for shall be entered.

19 (b) If the court finds that the applicant, at the time of
20 filing an application, or subsequently, had title, as stated in
21 the application, that the title is proper for registration, and
22 that subsequent to the filing of the application, the title has



1 been encumbered, then the title shall be registered subject to
2 the encumbrances so found.

3 (c) If the court finds that the applicant, at the time of
4 filing an application, or subsequently, had title, as stated in
5 the application, that the title is proper for registration, and
6 that subsequent to filing the application, the applicant has
7 conveyed away all or any portion or portions of the premises or
8 interest therein sought to be registered, then a decree of
9 confirmation and registration shall be entered, covering the
10 entire premises, confirming title in the applicant and the
11 person or persons deriving their title through the applicant, to
12 the premises or interest in accordance with the applicant's or
13 their respective true ownership of the whole or any portion or
14 portions thereof or interest therein at the time of filing the
15 decree, and subject to all encumbrances affecting all or any
16 portion thereof.

17 (d) Every decree of registration of absolute title shall
18 bind the land, and quiet the title thereto, subject only to the
19 exceptions stated in section 501-82. It shall be conclusive
20 upon and against all persons, including the State, whether
21 mentioned by name in the application, notice, or citation, or
22 included in the general description "to all whom it may



1 concern." The decree shall not be opened by reason of the
2 absence, infancy, or other disability of any person affected
3 thereby, nor by any proceeding for reversing judgments or
4 decrees[~~;~~ ~~subject, to the right of~~], except that any person
5 deprived of land or of any estate or interest therein by a
6 decree of registration obtained by fraud [~~to~~] may file a
7 petition for review within one year after the entry of the
8 decree[~~;~~ ~~provided no~~], unless an innocent purchaser for value
9 has acquired an interest. If there is any such purchaser, the
10 decree of registration shall not be opened but shall remain in
11 full force and effect forever, subject only to the right of
12 appeal [~~hereinbefore~~] herein provided. Any person aggrieved by
13 the decree in any case may pursue remedy by action of tort
14 against the applicant or any other person for fraud, in
15 procuring the decree.

16 (e) Deregistration pursuant to sections 501-A to 501-I
17 shall not alter or revoke the conclusive nature or effect of a
18 decree of registration, which shall continue to quiet the title
19 to the deregistered land as to all claims arising prior to the
20 recording of the certificate of title pursuant to section 501-A,
21 except claims as would not otherwise be barred under this
22 chapter if the lands were not registered."



SECTION 7. Section 501-86, Hawaii Revised Statutes, is amended to read as follows:

"§501-86 Registration runs with land. The obtaining of a decree of registration, and the entry of a certificate of title, shall be regarded as an agreement running with the land, and binding upon the applicant and all the applicant's successors in title, that the land shall be and forever remain registered land, and subject to this chapter ~~[and of all acts in amendment hereof.]~~, except as provided in part II."

SECTION 8. Section 501-108, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) An owner desiring to convey in fee registered land or any portion thereof shall execute a deed of conveyance, which the grantor or the grantee may present to the assistant registrar in the bureau of conveyances; provided that no deed, mortgage, lease, or other voluntary instrument shall be accepted by the assistant registrar for registration unless a reference to the number of the certificate of title of the land affected by such instrument is incorporated in the body of the instrument tendered for registration. If the certificate reference in the



1 instrument is not current, an endorsement of the current
2 certificate of title shall be required.

3 The assistant registrar shall note upon all instruments
4 filed or recorded concurrently with the recorded instrument the
5 document number ~~[and]~~, the certificate of title number, and, in
6 the case of deregistered land, the bureau of conveyances
7 document number in the spaces provided therefor wherever
8 required.

9 ~~[The]~~ Except as otherwise provided in section 501-A:

10 (1) The assistant registrar shall thereupon, in accordance
11 with the rules and instructions of the court, make out
12 in the registration book a new certificate of title to
13 the grantee~~[-]~~;

14 (2) The assistant registrar shall note upon the original
15 certificate the date of transfer, and a reference by
16 number to the last prior certificate~~[-]~~;

17 (3) The original certificate shall be stamped
18 "canceled" ~~[-]~~; and

19 (4) The deed of conveyance shall be filed or recorded and
20 endorsed with the number and place of registration of
21 the certificate of title of the land conveyed."

22 2. By amending subsection (d) to read:



1 "(d) The assistant registrar may refuse to file or record
2 any instrument that will not reproduce legibly under
3 photographic, electronic, or electrostatic methods, or that is
4 of a size larger than eight and one-half inches by eleven
5 inches, or that contains a schedule, inventory sheet, or map in
6 excess of that size. Notwithstanding any other law to the
7 contrary, the assistant registrar may accept an electronic
8 instrument in lieu of an original instrument with original
9 signatures subject to the requirements set forth in rules
10 adopted by the supreme court of the State of Hawaii consistent
11 with this section and chapter 489E."

12 SECTION 9. Section 501-116, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§501-116 Mortgage registration necessary.** The owner of
15 any interest in registered land may mortgage [~~such~~] the interest
16 by executing a mortgage thereof. Such a mortgage may be
17 assigned, extended, discharged, released in whole or in part, or
18 otherwise dealt with by the mortgagee by any form of instrument
19 sufficient in law for the purpose. [~~The~~] Except as provided in
20 part II, the mortgage, and all instruments assigning, extending,
21 discharging, and otherwise dealing with the mortgage, shall be



1 registered and shall take effect upon the title of the mortgaged
2 property only from the time of registration."

3 SECTION 10. Section 501-171, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) When the owner of registered land, or of any estate
6 or interest therein, dies, having devised the same by will, the
7 person or persons entitled thereto shall file or record with the
8 assistant registrar of the land court a correct statement of the
9 full names of the devisees, the residence or post office address
10 of each and their marital status and a reference to the number
11 of the certificate of title of the land affected, a certified
12 copy of the letters appointing the personal representative
13 showing the powers of the personal representative, or a
14 certified copy of an acknowledgment of authority, and either a
15 certified copy of an order of the circuit court determining the
16 persons entitled to distribution of the registered land and
17 directing or approving distribution or a deed from the personal
18 representative to the devisee or devisees, and thereupon the
19 assistant registrar shall cancel the certificate issued to the
20 testator, and, except as provided in part II, enter a new
21 certificate to the devisee or devisees. When the owner of
22 registered land or of any estate or interest therein dies, not



1 having devised the same, the persons entitled thereto by law
2 shall file or record with the assistant registrar a correct
3 statement of the full names of the heirs, the residence or post
4 office address of each, and their marital status, a certified
5 copy of the letters appointing the personal representative
6 showing the powers of the personal representative, or a
7 certified copy of an acknowledgment of authority, and either a
8 certified copy of an order of the circuit court in probate
9 proceedings determining the persons entitled to distribution of
10 the registered land and directing or approving distribution or a
11 deed from the personal representative to the heir or heirs, and
12 thereupon the assistant registrar shall cancel the certificate
13 issued to the intestate, and, except as provided in part II,
14 enter a new certificate to the heir or heirs entitled thereto."

15 SECTION 11. Section 502-7, Hawaii Revised Statutes, is
16 amended by amending the definition of "signature" to read as
17 follows:

18 "Signature" means the name of a person as written by the
19 individual [✕], the affixing of a mark or finger or toe
20 print[-], or electronic signature as that term is defined in
21 chapter 489E."



1 SECTION 12. Section 502-8, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) All moneys in excess of \$500,000 remaining on balance
4 in the bureau of conveyances special fund on June 30 of each
5 year shall lapse to the credit of the state general fund[-];
6 provided that any balance of funds collected pursuant to section
7 16 of Act , Session Laws of Hawaii 2009, shall not lapse to
8 the credit of the state general fund. On July 1 of each year,
9 the director of finance is authorized to transfer any excess
10 funds in the bureau of conveyances special fund to the state
11 general fund."

12 SECTION 13. Section 502-31, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§502-31 Recording, method.** (a) The registrar shall make
15 or cause to be made an entire literal copy of all instruments,
16 with their original signatures, required to be recorded in the
17 registrar's office, and the registrar, the registrar's deputy,
18 or clerk shall certify its correspondence with the original,
19 after which the registrar, the registrar's deputy, or clerk
20 shall certify upon the exterior, or indorse upon the recorded
21 instrument with the original signature, the date of its registry
22 and the document number.



1 (b) The registrar, for purposes of the general indexes of
2 the bureau of conveyances, shall use the names of the parties as
3 they first appear in the recorded instrument. All names of all
4 natural persons signing in their individual capacity shall be
5 typewritten, stamped, legibly printed by hand, or by a
6 mechanical or electrical printing method beneath all signatures.
7 The provisions of this [~~paragraph~~] subsection shall not apply to
8 any deed or conveyance instrument executed prior to July 1,
9 1989.

10 (c) The registrar or the registrar's deputy may refuse to
11 accept for record any document of a size larger than eight and
12 one-half inches by eleven inches, or which contains a schedule
13 or inventory sheet in excess of such size.

14 (d) This section shall apply to all instruments presented
15 for recording in the bureau of conveyances, unless otherwise
16 provided by rules adopted by the department of land and natural
17 resources, pursuant to chapter 91.

18 (e) All instruments to be recorded shall include the
19 original signature and the top three and one-half inches of
20 space of the first page shall be reserved for recording
21 information for the assistant registrar on the left half of such
22 space, and for the registrar of conveyances on the right half of



1 such space. The following one inch of space shall be reserved
2 for information showing to whom the document should be returned
3 beginning one and one-half inch from the left margin and not
4 exceeding three and one-half inches per line. In addition, the
5 first page shall identify and include, if possible, all names of
6 the grantors and all names and addresses of the grantees, the
7 type of document, and the tax map key number. Indorsements, if
8 any, may be made on a conforming fly sheet. No papers or
9 materials, written or otherwise, shall be secured or attached to
10 a page in any manner that may conceal any other written text.
11 If an instrument consists of more than one page, each page shall
12 be single-sided sheets of written text numbered consecutively,
13 beginning with number one, and shall be stapled once in the
14 upper left corner. No instrument shall have a cover or backer
15 attached. The registrar of conveyances shall be permitted to
16 remove any rivets affixed to any instrument. The registrar may
17 refuse to accept all instruments, papers, or notices presented
18 for recordation that will not reproduce legibly under
19 photographic, electronic, or electrostatic methods.
20 Notwithstanding any other law to the contrary, the registrar may
21 accept an electronic instrument in lieu of an original
22 instrument with original signatures subject to the requirements



1 set forth in rules adopted by the department of land and natural
2 resources consistent with this section and chapter 489E."

3 SECTION 14. Section 634-51, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§634-51 Recording of notice of pendency of action.** In
6 any action concerning real property or affecting the title or
7 the right of possession of real property, the plaintiff, at the
8 time of filing the complaint, and any other party at the time of
9 filing a pleading in which affirmative relief is claimed, or at
10 any time afterwards, may record in the bureau of conveyances a
11 notice of the pendency of the action, containing the names or
12 designations of the parties, as set out in the summons or
13 pleading, the object of the action or claim for affirmative
14 relief, and a description of the property affected thereby.
15 From and after the time of recording the notice, a person who
16 becomes a purchaser or incumbrancer of the property affected
17 shall be deemed to have constructive notice of the pendency of
18 the action and be bound by any judgment entered therein if the
19 person claims through a party to the action; provided that in
20 the case of registered land, section 501-151 [~~and~~], sections
21 501-241 to 501-248, and sections 501-A to 501-I shall govern.



1 This section authorizes the recording of a notice of the
2 pendency of an action in a United States District Court, as well
3 as a state court."

4 SECTION 15. Section 636-3, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§636-3 Judgment, orders, decrees; lien when.** Any money
7 judgment, order, or decree of a state court or the United States
8 District Court for the District of Hawaii shall be a lien upon
9 real property when a copy thereof, certified as correct by a
10 clerk of the court where it is entered, is recorded in the
11 bureau of conveyances. No such lien shall continue beyond the
12 length of time the underlying judgment, order, or decree is in
13 force. Except as otherwise provided, every judgment shall
14 contain or have endorsed on it the Hawaii tax identification
15 number, the federal employer identification number, or the last
16 four digits only of the social security number for persons,
17 corporations, partnerships, or other entities against whom the
18 judgment, order, or decree is rendered. If the debtor has no
19 social security number, Hawaii tax identification number, or
20 federal employer identification number, or if that information
21 is not in the possession of the party seeking registration of
22 the judgment, order, or decree, the judgment, order, or decree



1 shall be accompanied by a certificate that provides that the
2 information does not exist or is not in the possession of the
3 party seeking recordation of the judgment. Failure to disclose
4 or disclosure of an incorrect social security number, Hawaii tax
5 identification number, or federal employer identification number
6 shall not in any way adversely affect or impair the lien created
7 upon recordation of the judgment, order, or decree. When any
8 judgment, order, or decree is fully paid, the creditor or the
9 creditor's attorney of record in the action [~~shall~~], at the
10 expense of the debtor, shall execute, acknowledge, and deliver
11 to the debtor a satisfaction thereof, which may be recorded in
12 the bureau. Every satisfaction or assignment of judgment,
13 order, or decree shall contain a reference to the book and page
14 or document number of the registration of the original judgment.
15 The recording fees for a judgment, order, or decree and for each
16 assignment or satisfaction of judgment, order, or decree shall
17 be as provided by section 502-25.

18 In the case of registered land, section 501-102 [~~and~~],
19 sections 501-241 to 501-248, and sections 501-A to 501-I shall
20 govern."

21 SECTION 16. As of July 1, 2009, the department of land and
22 natural resources shall assess a transaction fee of \$5 to be



1 charged for each recording in the bureau of conveyances and in
2 the office of the assistant registrar of the land court for
3 services rendered by the bureau of conveyances pursuant to part
4 II of chapter 501 and chapter 502, Hawaii Revised Statutes. The
5 transaction fees collected shall be deposited to the credit of
6 the bureau of conveyances special fund established under section
7 502-8, Hawaii Revised Statutes, and shall be used to support
8 purchases of hardware, system design, and staff training related
9 to automation of the bureau of conveyances.

10 SECTION 17. **Fee time share interests electronic**
11 **recordation; two-year pilot program; establishment.** (a) The
12 bureau of conveyances shall implement an integrated electronic
13 filing system for electronic recordation of fee time share
14 interests. The bureau of conveyances shall provide staff as
15 needed for the implementation of the program. The goals of the
16 program shall be to:

17 (1) Design and implement an integrated electronic filing
18 system for electronic recordation of fee time share
19 interests; and

20 (2) Identify necessary employee training, changes in
21 applicable administrative rules or procedures, and



1 other relevant information necessary for the pilot
2 program to be expanded to the entire regular system.

3 (b) The bureau of conveyances shall submit a written
4 report on the implementation of the integrated electronic filing
5 system for electronic recordation of fee time share interests to
6 the legislature no later than twenty days prior to the convening
7 of the 2012 regular session. The report shall include findings
8 and recommendations, costs expended to date, and the estimated
9 cost of implementation on a permanent basis for the entire
10 regular system.

11 SECTION 18. There is created in the bureau of conveyances
12 an employer-employee working group to resolve any issues that
13 may arise in the implementation of section 2 of this Act and to
14 make recommendations for the recovery of lost revenue due to
15 deregistration of time shares. The working group shall be
16 chaired by the registrar of the bureau of conveyances.
17 Membership in the working group shall include the registrar of
18 the bureau of conveyances or the registrar's designee, the land
19 court registrar or the registrar's designee, and representatives
20 of bureau of conveyances employees to be chosen by the employees
21 according to a process prescribed by the registrar of the bureau
22 of conveyances. The registrar of the bureau of conveyances



1 shall prescribe rules and procedures for the conduct of the
2 working group. The working group shall submit a report of its
3 findings and activities to the legislature no later than twenty
4 days before the commencement of the 2010 regular session.

5 SECTION 19. In codifying the new sections added by
6 section 2 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 In printing this Act, the revisor of statutes shall
10 substitute in section 502-8, Hawaii Revised Statutes, of section
11 12, the corresponding number of this Act.

12 SECTION 20. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 21. This Act shall take effect on July 1, 2009;
15 provided that section 2 of this Act shall take effect on July 1,
16 2011, and shall be repealed on December 31, 2014; provided
17 further that section 16 of this Act shall take effect on July 1,
18 2009, and shall be repealed on the effective date of
19 administrative rules adopted by the department of land and
20 natural resources that address the establishment of transaction
21 fees for each recording in the bureau of conveyances and in the
22 office of the assistant registrar of the land court; provided



1 further that section 17 of this Act shall take effect on
2 January 1, 2012; and provided further that section 18 of this
3 Act shall take effect upon its approval and shall be repealed on
4 January 31, 2010. .



S.B. NO. 1352
S.D. 2
H.D. 2
C.D. 1

Report Title:

Bureau of Conveyances; Electronic Recording; Fee Time Share Interest

Description:

Transfers fee time share interest from the land court system to the regular system. Allows owner to "opt out" of land court and deregister land to regular system. Establishes a working group to resolve implementation issues. Establishes a pilot program to implement electronic recording of fee time share interests. Allows bureau of conveyances to charge a fee for deregistration of a fee time share interest. Allows electronic filing of land court and regular system documents and instruments. (CD1)

