

LINDA LINGLE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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HONOLULU, HAWAII 96809

**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committee on
WATER, LAND & OCEAN RESOURCES**

**Friday, February 6, 2009
9:15 AM
State Capitol, Conference Room 325**

**In consideration of
House Bill 1830
RELATING TO BUREAU OF CONVEYANCES**

House Bill 1830 proposes: 1) To remove time share interests from Land Court registration, 2) To authorize the Registrar of the Bureau of Conveyances (Bureau) to accept in the Regular System electronic instruments in lieu of original instruments with original signatures, 3) To authorize the Department of Land and Natural Resources (Department) to establish a transaction fee for services rendered relating to automation and, 4) To establish a pilot program for the to accept electronic filing of time share documents. The Department supports the intent of this bill, however has reservations with the pilot program which is unfunded.

First, House Bill 1830 is an attempt to ease the backlog in the recording and review process by removing time share interests from Land Court registration. Past and future increases in the development of time shares cause delays in the recording of these interests in Land Court and increase the labor required to maintain the records.

The Bureau is under tremendous pressure to keep current with the increase in timeshare recordings. The Land Court, established in 1903, was never intended for the purpose of maintaining multiple owners and interests on specific parcels. Administration of recorded instruments in Land Court was impacted with the passage of condominium laws. Time share recordation in Land Court further challenges the Bureau's staff and affects the integrity of the System.

Further, the Department proposes that this bill be amended to include the ability for landowners to opt out of Land Court. There is minimal exposure to the landowners who choose to opt out of Land Court due to the availability of title insurance that affords protection to landowners against defective title. Land Court was established in 1903, prior to the introduction of title insurance in 1957 in Hawaii.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Second, the Department strongly supports the authority to accept electronic documents. Electronic filing of documents would facilitate the recording process and improve delivery of information to the general public. This measure allows documents recorded in the Regular System to be filed in electronic format. The Department prefers to allow documents to be recorded electronically in both the Regular System and the Land Court System.

Presently, the Bureau and the Office of the Assistant Registrar accepts only original paper instruments with original signatures for recordation in the Regular System. This bill will allow the Bureau to accept electronic documents for recordation once the Department adopts rules specifying the format of acceptable electronic documents.

Third, this bill authorizes the Department to establish a transaction fee for services rendered relating to automation. The Department has the authority to change the fees charged for recording or other services through administrative rules without legislative approval.

Finally, this bill establishes a pilot program for the Bureau to accept electronic filing of time share documents. The Department plans on moving forward with accepting all documents via electronic filing. The Bureau began beta testing Uniform Commercial Code documents, with a goal to be on-line this spring. However, before the Bureau can be on-line with all documents, it needs to upgrade the system. The Bureau must purchase and install adequate computer hardware or systems to manage the full volume of documents filed at the Bureau through an on-line system. The Department has requested an increase of \$650,000 to the ceiling of the Bureau of Conveyances Special Fund to support purchase of hardware, system design and staff training for Fiscal Years 2010 and 2011, and the Department respectfully requests the Legislatures' support of that action so the Bureau move forward with implementing full electronic filing.

For this Committee's consideration, the Administration has submitted two proposals, House Bill 1137 (RELATING TO FILINGS IN THE BUREAU OF CONVEYANCES) and House Bill 1139 (RELATING TO THE LAND COURT SYSTEM), that allow the Bureau to accept electronic filing in both the Regular System and the Land Court System and remove time share interests from Land Court registration.

Testimony for HB1830 on 2/6/2009 9:15:00 AM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Monday, February 02, 2009 8:41 PM

To: WLOtestimony

Cc: [REDACTED]

Testimony for WLO 2/6/2009 9:15:00 AM HB1830

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Zelei Abordo

Organization: Individual

Address: [REDACTED]

Phone: [REDACTED]

E-mail: [REDACTED]

Submitted on: 2/2/2009

Comments:

HB 1830 & SB 1352 should be titled: Deregistration of land court time shares. DLNR administrators have tried to deregister land court time shares in the past but were unsuccessful when legislators were made aware of the loss of revenue to the Bureau of Conveyances.

I will be flying out to Maui on the day of the hearing but I will try to drop off some figures to show legislators the amount of money that the Bureau of Conveyances could lose if this bill is passed. I urge legislators to vote nay on this bill.

It also bothers me how administrators are coupling deregistration with electronic filing. If legislators fail to pass the package can the administrators use this as a way to blame the legislators for holding the Bureau back from streamlining the system? In my opinion, I would suggest that DLNR administrators deal with the backlog, upgrade the computer systems, train the employees and then come to the legislators to implement electronic filing. By passing this bill legislators will be creating a bigger problem for the bureau. I don't believe this is in the best interest of the bureau but in the interest of a few.

Thank you for your time and concern.

Sincerely,
Zelei Abordo

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Zelvi Abordo

February 6, 2009

HB 1830

To: Water, Land and Ocean Resources Committee
Representative Ken Ito - Chair
Representative Sharon E. Har - Vice-Chair
& Members:

I am writing for myself and others in my office who oppose HB 1830 & SB 1352. In the past DLNR administrators have tried to pass bills to deregister timeshares but have been unsuccessful when legislators were made aware of the loss of revenue to the Bureau of Conveyances. Now to get the bill passed administrators are coupling electronic filing and deregistering the land court timeshares as the solution to the backlog.

Deregistration of the land court time shares is a loss in revenue of approximately \$300,000 per fiscal year. This is a low estimate. Time shares are the easiest of the types of transactions to process. It is a revenue generator. The amount of time to process a time share takes only a fraction of the \$25 per document to process

Attached are some figures representing the loss of revenue the bureau will be facing if legislators vote yea on this bill. This is just an approximate figure as some projects weren't added into this calculation.

Other problems with this solution is that all of the BOC recordings are done hard copy/paper because the HRS dictates that receivers check for original signatures on all recorded instruments. In addition to having original signatures the notary's signature must be original. Receivers also check to make sure that the notary's seal is affixed. Some notaries do NOT have an inked seal, instead they have an 'embossed' seal which would not be visible if the document is sent electronically.

In addition to these technical difficulties there are bigger problems regarding our infrastructure to accommodate 'electronic' filing. The BOC just recently got rid of our antiquated Wang computers. Our programs are slow, old and just some of the employees got Word 2003. We don't have the latest versions of Excel, Windows, etc. and more than half of the staff do not have internet access. Approximately, 2 years ago the BOC was trying to enhance features on our computers to streamline the process to address the backlog but was told that the features weren't available. Now that there is no money because of the economy I guess our infrastructure won't be fixed.

A year before the investigative hearings the Assistant Registrars and Review Section were current with their work. Operational mismanagement created the backlog. After the investigative hearings the Land Court Receiving Section worked to become current and the Review section went from an 18 month backlog to a 6 month backlog. This was a crucial period. If we were just given a few more months of overtime we would've been current today but the incoming management cut overtime citing lack of money and used the money they had to buy furniture and dividers for the office. 2007 was a huge recording year and the timing of the cut of overtime hurt our department.

I understand that during the investigative hearings legislators were overwhelmed by the amount of overtime money that the bureau had spent but the reason for that is because they were paying for 6 assistant registrars and 1 branch chief at their rate of pay.

We realize that the title companies would be in favor of this bill because the timeshare associations are their clients. Land court receiving and indexing are current so the title companies are getting their information in a timely manner. Currently whatever is backlogged with the ARs or review section are rushed if any company needs it ASAP.

Our solution to catch up with the backlog would be to give overtime to the certificate writers and rotate 2 AR's for no less than 9 months. We believe that spending money temporarily for overtime versus giving

up the revenue that the timeshares bring in is a better solution. On top of that once the ct writers and ARs get out of 2007, it will be easier to catch up because there was a drop in recordings in 2008.

SB 752 regarding self-help housing is asking for a dedicated source of funding with income from the conveyance tax. Land court timeshares also bring in revenues through conveyance taxes.

We hope that legislators will at least take our recommendation into consideration. We believe that monetarily this is a huge decision. Thank you for your time and attention.

Sincerely,
Zelei Abordo

Attachment: Timeshare Documents
Recorded 2007 and 2008
Summary

				2007
2008		Document Description	Regular	Land Court
Class Code	Land Court			
Regular				
ATS		Assignment of Timeshare	1,577	38
929	16			
RC		Reconveyance of Timeshare	2,886	2,660
5,053	4,223			
TS		Timeshare		1,228
19	658	5		
TSD		Timeshare Deed	13,520	
19,336	7,987	7,931		
		TOTAL DOCUMENTS	19,211	
22,053	14,627	12,175		
		RECORDING FEE	\$134,477	
\$154,371	\$102,389	\$85,225		
		LAND COURT FEE		
\$551,325		\$304,375		

As I stated earlier these are approximate estimates regarding the land court timeshares because different projects such as the Hilton, Ko Olina, etc weren't factored into this calculation. For each land court timeshare that is deregistered the bureau will lose \$25.00. Land court charges \$50.00 whenever a transaction transfers ownership from one person to another. Regular system charges \$25.00 only. So instead of making \$551,325, in 2007, land court would've made approximately \$255,000 and instead of making \$304,375 in 2008, land court would've made approximately \$150,000 bringing it to an approximate loss of \$400,000 in 2 years. This is a substantial loss in revenue for any agency.

Also legislators can see the drop in recordings, in 2008, which will make it easier for the ARs and review section to catch up if given the overtime to do it. If we can consider losing \$400,000 I think we can consider giving the land court review section overtime. Again thank you for your concern.

Zelei

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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MEMORANDUM

TO: Representative Ken Ito
Chair, Committee on Water, Land & Ocean Resources

VIA HAND DELIVERY

FROM: Mihoko Ito

DATE: February 5, 2009

RE: **H.B. 1830 relating to Bureau of Conveyances**
Hearing on Friday, February 6, 2009 at 9:15 a.m., Room 325

Dear Chair Ito and Members of the Committee on Water, Land & Ocean Resources:

I am Mihoko Ito, testifying on behalf of Wyndham Worldwide. Wyndham Worldwide offers individual consumers and business-to-business customers a broad suite of hospitality products and services across various accommodation alternatives and price ranges through its portfolio of world-renowned brands. Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its new resort at Waikiki Beach Walk.

We support H.B. 1830, which removes fee simple time share transactions from the Land Court System, provides the option for all landowners to transfer their property from the Land Court System to the Regular System of the Bureau of Conveyances, and establishes a pilot program to implement electronic recording of fee simple time share interests. The removal of fee simple time share transactions from the Land Court System would eliminate the need to issue a certificate of title for each fee simple time share unit for each owner. The number of owners for a fee simple time share ranges from hundreds to thousands, and each owner has a percentage interest in the time share property. H.B. 1830 would streamline the registration process for fee simple timeshare interests and, for this reason, we ask for your favorable support.

Thank you very much for the opportunity to submit testimony.

Testimony In Consideration of HB1830

DATE: February 6, 2009 9:15 pm., Conference Room 325
TO: Committee on Water, Land, & Ocean Resources

Chair: Rep. Ken Ito	Vice Chair: Rep. Sharon Har
Rep. Rida Cabanilla	Rep. Jerry L. Chang
Rep. Pono Chong	Rep. Denny Coffman
Rep. Robert N. Herkes	Rep. Chris Lee
Rep. Roland D. Sagum	Rep. Cynthia Thielen
Rep. Corinne W.L. Ching	Rep. Hermina M. Morita
Rep. Sylvia Luke	

FROM: Russell Castagnaro
Title: General Manager
Company: Hawaii Information Consortium, LLC
RE: Testimony In Consideration of HB1830

Aloha Chair, Vice Chair, and Members of the Committee:

As the Hawaii's Internet Portal Manager, we implement most of the eGovernment and eCommerce solutions for state and county partners. We are actively working with the Bureau of Conveyances on an electronic filing application similar to those used at the Department of Taxation, Department of Commerce and Consumer Affairs, other divisions of the Department of Land and Natural Resources and many others.

The portal strongly supports the authority to accept and store electronic documents and the elimination of the currently required wet signatures for all documents filed with the state. Electronic storage of filed documents should also an option in addition to the photostatic and/or paper document storage options currently required.

The portal will gladly work with the Bureau on a pilot program to accept electronic filing of time share documents, should this bill pass.

Thank you for the opportunity to testify.

Russell Castagnaro



American Resort Development Association
c/o PMCI Hawaii 84 N. King Street Honolulu, HI 96817 (808) 536-5688

February 6, 2009

TO: House Water, Land, & Ocean Resources Committee
Rep. Ken Ito, Chair
Rep. Sharon Har, Vice-Chair

FROM: Ed Thompson
ARDA-Hawaii

DATE: Friday, February 6, 2009
Conference Room 325
9:15 a.m.

RE: **HB1830, RELATING TO BUREAU OF CONVEYANCES**

Chair Ito and Members of the Committee:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for over eight percent of the State's lodging inventory.

ARDA-Hawaii supports HB1830 which would transfer fee simple time share interest from the land court system to the regular system and establish a pilot program to implement electronic recording of fee simple time share interests. Currently every timeshare owner is issued a certificate of title which amounts to thousands of individual owners. This measure will help to streamline the registration process while maintaining adequate protection of ownership.

Thank you very much for the opportunity to offer testimony on this measure.

**Committee on Water, Land, & Ocean Resources
Hearing
Friday, February 6, 2008, 9:15 a.m.
Conference Room 325**

Representative Ken Ito, Chair



Testimony on HB 1830, Relating to the Land Court System

Dear Chair Ito and Members of the Committee:

My testimony is in SUPPORT of HB1830. My name is Lynn McCrory and I am the President of PAHIO Development, Inc. We are a locally owned and operated time share development company on the island of Kauai.

This bill will remove from the Land Court the recording of all ownership of timeshare intervals, their governing document recordation, and any other documents relating to the title. The Bureau of Conveyance also records all timeshare intervals, governing documents, and all other documents relating to the title. These are duplicate recordings that result in an incredible amount of documents being processed through the two land systems.

The bill also allows a timeshare project not to register with Land Court and allows existing time share projects to deregister from Land Court. This will stop any further filing of documents into the two land systems.

The bill allows for filing utilizing an electronic signature. This will also facilitate the time it takes for the recordation of documents.

These three changes will assist to alleviate any backlog that exists within the Land Court and allow a timelier recordation of all other real estate and timeshare documents.

I humbly ask for your consideration to SUPPORT HB1830. Mahalo!

Me ke aloha pumehana
With warm aloha,

PAHIO DEVELOPMENT, INC.

A handwritten signature in black ink, appearing to read "Lynn P. McCrory".

Lynn P. McCrory, RRP
President

C: PMCI

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HOUSE COMMITTEE ON
WATER, LAND AND OCEAN RESOURCES

February 6, 2009

HB 1830 Relating to Bureau of Conveyances

Chair Ito and members of the House Committee on Water, Land, and Ocean Resources, I am Rick Tsujimura, representing Marriott Vacation Club International, Inc. (Marriott). Marriott supports House Bill 1830 Relating to Bureau of Conveyances.

If timeshares are withdrawn from Land Court and recorded in Regular system only, it would alleviate the backlog currently encountered in recording time share interests.

For this reason we respectfully request that you pass House Bill 1830. Thank you for the opportunity to present this testimony.

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