
A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE PENALTIES ON PUBLIC LANDS.

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

1 SECTION 1. Section 171-6.4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 " ~~{}~~ §171-6.4 ~~{}~~ **General administrative penalties.** (a)

4 Except as otherwise provided by law, the board or its authorized
5 representative by proper delegation may set, charge, and collect
6 administrative fines or bring legal action to recover
7 administrative fees and costs as documented by receipts or
8 affidavit, including attorneys' fees and costs; or bring legal
9 action to recover administrative fines, fees, and costs,
10 including attorneys' fees and costs, or payment for damages
11 resulting from a violation of this chapter or any rule adopted
12 pursuant to this chapter. The administrative fines shall be as
13 follows:

14 (1) For a first violation, a fine of not more than \$2,500;

15 (2) For a second violation within five years of a previous

16 violation, a fine of not more than \$5,000; and



1 (3) For a third or subsequent violation within five years
2 of the last violation, a fine of not more than
3 \$10,000.

4 (b) Any criminal action against a person for any violation
5 of this chapter or any rule adopted pursuant to this chapter
6 shall not be deemed to preclude the State from pursuing civil
7 legal action against that person. Any civil legal action
8 against a person to recover administrative fines and costs for
9 any violation of this chapter or any rule adopted pursuant to
10 this chapter shall not be deemed to preclude the State from
11 pursuing any criminal action against that person. Each day of
12 each violation shall constitute a separate offense.

13 (c) Noncompliance of administrative enforcement action
14 against a landowner for a land use, as defined in chapter 183C,
15 violation or for a currently unauthorized structure encroaching
16 on public lands (including but not limited to submerged lands or
17 lands within the shoreline) that falls, slides, or came onto
18 public land, or arises from or benefits an adjoining or abutting
19 private land shall affect title as referred to in section 501-
20 151 and result in a lien attaching to the adjoining or abutting
21 private land."



1 SECTION 2. Section 501-151, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§501-151 Pending actions, judgments; recording of,
4 notice. No writ of entry, action for partition, or any action
5 affecting the title to real property or the use and occupancy
6 thereof or the buildings thereon, and no judgment, nor any
7 appeal or other proceeding to vacate or reverse any judgment,
8 shall have any effect upon registered land as against persons
9 other than the parties thereto, unless a full memorandum
10 thereof, containing also a reference to the number of the
11 certificate of title of the land affected is filed or recorded
12 and registered. Except as otherwise provided, every judgment
13 shall contain or have endorsed on it the State of Hawaii general
14 excise taxpayer identification number, the federal employer
15 identification number, or the last four digits only of the
16 social security number for persons, corporations, partnerships,
17 or other entities against whom the judgment is rendered. If the
18 judgment debtor has no social security number, State of Hawaii
19 general excise taxpayer identification number, or federal
20 employer identification number, or if that information is not in
21 the possession of the party seeking registration of the



1 judgment, the judgment shall be accompanied by a certificate
2 that provides that the information does not exist or is not in
3 the possession of the party seeking registration of the
4 judgment. Failure to disclose or disclosure of an incorrect
5 social security number, State of Hawaii general excise taxpayer
6 identification number, or federal employer identification number
7 shall not in any way adversely affect or impair the lien created
8 upon recording of the judgment. This section does not apply to
9 attachments, levies of execution, or to proceedings for the
10 probate of wills, or for administration in a probate court;
11 provided that in case notice of the pendency of the action has
12 been duly registered it is sufficient to register the judgment
13 in the action within sixty days after the rendition thereof.

14 As used in this chapter, "judgment" includes an order or
15 decree having the effect of a judgment.

16 Notice of the pendency of an action in a United States
17 District Court, as well as a court of the State of Hawaii, may
18 be recorded.

19 Notice of opening a dispute resolution case as provided in
20 section 667-79 may be recorded.



1 Foreclosure notice as provided in section 667-23 may be
2 recorded.

3 The party seeking registration of a judgment shall redact
4 the first five digits of any social security number by blocking
5 the numbers out on the copy of the judgment to be filed or
6 recorded.

7 As used in this section, "action" includes an
8 administrative enforcement action by any state or county agency,
9 board, or commission against a landowner for a land use
10 violation or a currently unauthorized structure encroaching on
11 public lands (including but not limited to submerged lands or
12 lands within the shoreline) that falls, slides, or came onto
13 public land, or arises from or benefits an adjoining or abutting
14 private land."

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

17 "§634-51 Recording of notice of pendency of action.
18 [†](a)[†] In any action concerning real property or affecting
19 the title or the right of possession of real property, the
20 plaintiff, at the time of filing the complaint, any state or
21 county agency, board, or commission imposing an administrative



1 enforcement action, and any other party at the time of filing a
2 pleading in which affirmative relief is claimed, or at any time
3 afterwards, may record in the bureau of conveyances a notice of
4 the pendency of the action, containing the names or designations
5 of the parties, as set out in the summons or pleading, the
6 object of the action or claim for affirmative relief, and a
7 description of the property affected thereby. From and after
8 the time of recording the notice, a person who becomes a
9 purchaser or encumbrancer of the property affected shall be
10 deemed to have constructive notice of the pendency of the action
11 and be bound by any judgment entered therein if the person
12 claims through a party to the action; provided that in the case
13 of registered land, section 501-151, sections 501-241 to
14 501-248, and part II of chapter 501 shall govern.

15 [†] (b) [†] This section authorizes the recording of a
16 notice of the pendency of an action in a United States District
17 Court, as well as a state court.

18 As used in this section, "action" includes an
19 administrative enforcement action by any state or county agency,
20 board, or commission against a landowner for a land use
21 violation or a currently unauthorized structure encroaching on



1 public lands (including but not limited to submerged lands or
2 lands within the shoreline) that falls, slides, came onto public
3 land, or arises from or benefits an adjoining or abutting
4 private land."

5 SECTION 4. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect on July 1, 2050.



Report Title:

Administrative Penalties; Lien on Private Lands

Description:

Authorizes the Board of Land and Natural Resources to place a lien on property for noncompliance with administrative enforcement action. Effective 7/1/2050. (SD1)

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