
A BILL FOR AN ACT

RELATING TO THE RECORDING OF INSTRUMENTS.

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

1 SECTION 1. The legislature finds that homeowners are
2 facing significant financial losses due to the recording of
3 instruments that are void and unenforceable, either because
4 noncompliance with applicable laws expressly renders any
5 violative agreement void and unenforceable, or because the
6 conduct constitutes intentionally exploitative or predatory
7 behavior amounting to fraud or criminal conduct.

8 In the case of fraudulent instruments, including forged
9 deeds, scammers target properties where title is held by an
10 owner who may appear vulnerable due to age or financial
11 condition and who may appear to be neglecting the property.
12 Some of these properties may be vacant or occupied by squatters.
13 Some scammers have violent criminal backgrounds and have been
14 known to appear at the property unannounced and confront anyone
15 present, whether an owner or a tenant, falsely claiming
16 ownership of the property by virtue of a fraudulent deed and
17 demanding that the property be vacated. Scammers perpetrating



1 this fraud may seek to profit from their scheme by transferring
2 title to the property through a second fraudulent deed to a
3 third-party purchaser in exchange for money, or by using the
4 property as collateral to obtain a loan. In either event, the
5 real owner may be faced with the need to contend with someone
6 claiming to be a bona fide purchaser or bona fide encumbrancer.

7 In addition to harmed homeowners, everyone involved with
8 these properties may be negatively impacted, including persons
9 in the chain of title, consumers and the public at large,
10 realtors, lenders, title companies, property insurers,
11 appraisers, surveyors, architects, contractors, and conceivably
12 many others. To obtain relief, the homeowner would typically
13 need to retain an attorney to file a court action to remedy the
14 title issues. Under typical circumstances, based on the time
15 and expense involved, even if the homeowner is successful in
16 restoring title, the homeowner will never be made whole
17 financially.

18 The legislature further finds that instruments submitted
19 for filing in Hawaii's recording systems are not screened for
20 indicators of fraud and that the recordation of a fraudulent
21 instrument poses a real threat to any person holding title to or



1 having an interest in real property. Deeds executed with the
2 intent to deceive or defraud pose a considerable threat of harm
3 due to the general reliance upon the recording system.

4 The risk of harm caused by a fraudulent deed may be reduced
5 if the attorney general, county attorney, or prosecuting
6 attorney of any county, or the executive director of the office
7 of consumer protection, pursuant to statutory investigative
8 authority, files in Hawaii's recording system a notice of
9 pendency of investigation in connection with an investigation of
10 a reported or suspected violation of law concerning real
11 property or affecting the title to, or the right of possession
12 of, real property. The filing of a notice of pendency of
13 investigation may help preserve the rights of any person
14 claiming title to, or the right to possession of, real property.

15 In the event an action concerning the real property is later
16 commenced, the legal relief sought in that action may still be
17 obtainable and not rendered moot by subsequent conduct involving
18 the property that might affect title or possession of the
19 property. A notice of pendency of investigation would preserve
20 the power of the judiciary to effect justice with respect to
21 real property during the critical period of investigation of the



1 underlying conduct and issues of contract formation and
2 enforceability.

3 The purpose of this Act is to authorize:

4 (1) The recording of a notice of pendency of investigation
5 in the bureau of conveyances and land court to alert
6 potential purchasers or encumbrancers to
7 investigations of reported or suspected violations
8 concerning real property or affecting title to, or
9 right of possession of, real property; and

10 (2) The registrar to accept for recordation a notice of
11 pendency of investigation to promote transparency in
12 the public record, reduce the risk of harm to victims,
13 deter bad actors from exploiting the system, and
14 preserve the ability of courts to enter declaratory
15 relief as to title and to expunge documents determined
16 by the court to be void and unenforceable.

17 SECTION 2. Chapter 634, Hawaii Revised Statutes, is
18 amended by adding a new section to part IV to be appropriately
19 designated and to read as follows:

20 "§634- Notice of pendency of investigation. (a) A
21 governmental agency authorized by law to conduct investigations,



1 including the attorney general, county attorney, or prosecuting
2 attorney of any county, or executive director of the office of
3 consumer protection, in connection with any investigation of a
4 reported or suspected violation of law concerning real property
5 or affecting the title or the right of possession of real
6 property, may record in the recording system described in
7 chapters 501 and 502 a notice of pendency of investigation.

8 (b) A notice of pendency of investigation may be recorded
9 if the agency the investigation relates to alleged conduct that,
10 if proven, could result in a civil or criminal proceeding
11 affecting title to or an interest in the real property described
12 in the notice, and the investigating agency has made a written
13 determination that recordation is necessary to provide notice to
14 potential purchasers or encumbrancers.

15 (c) The notice of pendency of investigation shall contain:
16 (1) The name of the investigating agency;
17 (2) A statement that there is a pending investigation that
18 may result in an action affecting title to or an
19 interest in the described real property;
20 (3) A legal description of the real property affected;
21 (4) The date the investigation was formally initiated; and



1 (5) A statement in substantially the following form:

2 "This notice does not constitute a finding of
3 wrongdoing, does not create a lien, and does not
4 determine any right, title, or interest in the
5 property."

6 (d) From the time of recording, a notice of pendency of
7 investigation shall impart constructive notice to subsequent
8 purchasers and encumbrancers of the existence of the
9 investigation. A person who becomes a purchaser or encumbrancer
10 of the property affected shall be deemed to have constructive
11 notice of the pendency of the investigation; provided that in
12 the case of registered land, section 501-151, sections 501-241
13 to 501-248, and part II of chapter 501 shall govern; provided
14 further that the notice shall not create a lien or encumbrance,
15 establish probable cause or liability, or restrict transfer of
16 title.

17 (e) A notice of pendency of investigation shall expire
18 upon the earliest of:

19 (1) The recordation of a notice of pendency of action in
20 connection with the commencement of an action
21 affecting the property;



1 (2) The recordation of a release by the investigating
2 agency; or
3 (3) The expiration of ninety days from the date of
4 recordation, unless extended by court order upon a
5 showing of cause, which extension shall not exceed an
6 additional ninety days, or one hundred eighty days
7 from the initial date of recordation.

8 For the purposes of this subsection, "cause" includes but
9 is not limited to delays in the government agency's
10 investigation that are attributable to persons of interest who
11 are not readily available to answer questions, provide
12 statements, testify, or provide documents in response to a
13 request or subpoena; who are reluctant to cooperate; who evade
14 service; or who orchestrate delays.

15 (f) During any time when a notice of pendency of
16 investigation remains of record, any owner, title holder,
17 mortgagee, or other person holding a recorded or perfected
18 security interest in the real property who believes the notice
19 of pendency of investigation has been filed in bad faith may
20 petition the appropriate court to contest the appropriateness of
21 the notice of pendency of investigation.



1 (g) The petition made pursuant to subsection (f) shall
2 state the grounds upon which relief is requested and shall be
3 supported by the affidavit of the petitioner or the petitioner's
4 attorney setting forth a concise statement of the facts upon
5 which the petition is based. The court shall set the petition
6 for oral hearing. The procedure for obtaining expungement of a
7 notice of pendency of action shall apply in cases brought under
8 this section.

9 (h) At the conclusion of the hearing, or any continued
10 hearing on the petition, the court may expunge the notice of
11 pendency of investigation or allow the notice of pendency of
12 investigation to remain of record, either unconditionally or on
13 conditions as the court deems fair. The court may order
14 additional relief, such as facilitating the production of
15 documents or the elicitation of testimony, as it may facilitate
16 a prompt determination as to whether the investigation warrants
17 the filing of an action and accompanying recording in accordance
18 with 634-51. The overriding issue shall rest upon the court's
19 satisfaction that the investigation may identify facts
20 warranting the filing of an action concerning real property or
21 affecting title or the right of possession of real property.



1 The government agency does not need to prove misconduct, but
2 merely grounds warranting the investigation, which may be a
3 reasonable suspicion of misconduct in connection with title or
4 the right to possession of real property, which may include:

5 (1) Suspected forgery;
6 (2) Use of false information, such as when a deed contains
7 false statements or misrepresentations about the
8 property, the parties involved, or other significant
9 details;
10 (3) Undue influence or coercion, such as when an
11 individual is pressured, coerced, or manipulated into
12 signing away the individual's property;
13 (4) Lack of capacity, such as when a deed is signed by an
14 individual who lacks the legal capacity to understand
15 the nature and consequences of the transaction, as in
16 a case of mental incapacity or being a minor;
17 (5) Identity theft;
18 (6) Absence of genuine consent, such as when a deed was
19 signed under duress or where consent was not freely
20 given;
21 (7) Improper execution or recording;



- 1 (8) Indicators of a scam or scheme;
- 2 (9) The lack of an agreement or meeting of the minds;
- 3 (10) Lack of a written purchase agreement;
- 4 (11) Lack of consideration or adequate consideration;
- 5 (12) Misrepresentation, fraud, or unfair or deceptive acts
6 or practices;
- 7 (13) Noncompliance with any applicable consumer protection
8 laws;
- 9 (14) Noncompliance with any laws that may render any
10 agreement void or unenforceable; or
- 11 (15) Conduct indicative that a party engaged in exploitive
12 or predatory behavior."

13 SECTION 3. Section 502-31, Hawaii Revised Statutes, is
14 amended to read as follows:

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



1 instrument with the original signature, the date of its registry
2 and the document number.

3 (b) The registrar, for purposes of the general indexes of
4 the bureau of conveyances, shall use the names of the parties as
5 they first appear in the recorded instrument. All names of all
6 natural persons signing in their individual capacity shall be
7 typewritten, stamped, legibly printed by hand, or by a
8 mechanical or electrical printing method beneath all signatures.

9 The provisions of this subsection shall not apply to any deed or
10 conveyance instrument executed ~~[prior to]~~ before July 1, 1989.

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

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

19 (e) All instruments to be recorded shall include the
20 original signature and the top three and one-half inches of
21 space of the first page shall be reserved for recording



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



1 Notwithstanding any other law to the contrary, the registrar may
2 accept an electronic instrument in lieu of an original
3 instrument with original signatures subject to the requirements
4 set forth in rules adopted by the department of land and natural
5 resources consistent with this section and chapter 489E.

6 (f) The registrar shall accept for recordation a notice of
7 pendency of investigation submitted pursuant to section
8 634- by the attorney general, any county attorney or
9 prosecuting attorney, or the executive director of the office of
10 consumer protection. The notice of pendency of investigation
11 shall be submitted in recordable form pursuant to this chapter.
12 For any notice affecting registered land, section 501-151,
13 sections 501-241 to 501-248, and part II of chapter 501 shall
14 govern."

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

18

INTRODUCED BY:



JAN 28 2026



Report Title:

Bureau of Conveyances; Land Court; Recording of Instruments

Description:

Authorizes the recording of a notice of pendency of investigation in the Bureau of Conveyances and Land Court to alert potential purchasers or encumbrancers to investigations of reported or suspected violations of law concerning real property or affecting the title to, or the right of possession of, real property. Specifies the requirements, contents, effect, and procedures for the expiration or expungement of the notice. Requires the registrar to accept for recordation notices of pendency of investigation submitted by authorized government agencies.

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