

ACT 346

S.B. NO. 2522

A Bill for an Act Relating to Land Court Registration.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 501-9, Hawaii Revised Statutes, is amended to read as follows:

“§501-9 Assistant registrars; powers. The registrar of conveyances in the bureau of conveyances designated in section 502-1 and the registrar of conveyances’ deputy are assistant registrars to carry out the duties of recording and registration required under this chapter. Assistant registrars have the same authority as the registrar to make all memoranda affecting the title of land, to enter and issue new certificates of title as provided herein and to affix the seal of the court to the certificates [and duplicate certificates] of titles. In executing this chapter, the assistant registrars shall be subject to the general direction of the registrar in order to secure uniformity throughout the State. In case of the death or disability of the registrar, the assistant registrars in Honolulu shall perform the duties of the registrar until the vacancy is filled or the disability removed.”

SECTION 2. Section 501-74, Hawaii Revised Statutes, is amended to read as follows:

“§501-74 Decree, contents of. Every decree of registration shall bear the date of the year, day, hour, and minute of its entry, and shall be signed by the registrar. It shall state whether the owner is married or unmarried, and if married the full name of the husband or wife. If the owner (or spouse of the owner) has been known by more than one name, all the names of such person shall be stated. The wife’s maiden name and surname shall be stated in all cases. If the owner is under disability it shall state the nature of the disability, and if a minor, shall state the minor’s age. It shall contain a description of the land as finally determined by the court; and shall set forth the estate of the owner, and also, in such manner as to show their relative priority, all particular estates, mortgages, easements, liens, attachments, and other encumbrances including rights of husband or wife, if any, to which the land or the owner’s estate is subject; and may contain any other matter properly to be determined in pursuance of this chapter. The decree shall be stated in a convenient form for transcription upon the certificate[s] of title hereinafter mentioned.”

SECTION 3. Section 501-75, Hawaii Revised Statutes, is amended to read as follows:

“§501-75 Transcription of decree in registry; certificate of title. Immediately upon the entry of the decree of registration the registrar shall send a certified copy thereof, under the seal of the court, to the assistant registrar in the bureau of conveyances, who shall transcribe the decree in a book to be called the registration book, in which a leaf or leaves in consecutive order shall be devoted exclusively to each title. The entry made by the assistant registrar in this book in each case shall be the original certificate of title, and shall be signed by the assistant registrar and sealed with the seal of the court. All certificates of title shall be numbered consecutively, beginning with number one. [The assistant registrar shall in each case make an exact duplicate of the original certificate, including the seal, but putting on it the words “owner’s duplicate certificate,” and deliver the same to the owner or to the owner’s attorney duly authorized.]

[In case of a variance between the owner's duplicate certificate and the original certificate the original shall prevail.] The certified copy of the decree of registration shall be filed and numbered by the assistant registrar with a reference noted on it to the place of record of the original certificate of title. When several parcels of land which are not contiguous have been registered under one application as permitted by section 501-25, the decree of registration shall expressly state that the assistant registrar, after entering the decree in the registration book, may cancel the original certificate of title and issue in place thereof a separate transfer certificate of title for each parcel so registered."

SECTION 4. Section 501-84, Hawaii Revised Statutes, is amended to read as follows:

"§501-84 Certificates, when two or more owners. Where two or more persons are registered owners as tenants in common, [or otherwise], one [owner's duplicate] certificate may be issued for the whole land, or a separate [duplicate] certificate may be issued to each for the owner's undivided share."

SECTION 5. Section 501-85, Hawaii Revised Statutes, is amended to read as follows:

"§501-85 Substitution, one certificate for several, several for one; subdivisions, maps. A registered owner [holding one duplicate certificate for] of several distinct parcels of land covered by one certificate of title may [surrender it], with the approval of the court, [and receive] have that certificate of title canceled and separate certificates entered for portions thereof. A registered owner [holding separate duplicate certificates] [for] of two or more distinct parcels of land, which are contiguous, or which are so adjacent (although separated by a roadway or stream or other strip of land) as to form one lot of land for practical use, may [surrender the certificates, and,] with like approval and by a decree of the court, have that certificate canceled [receive] and a single original [and duplicate] certificate for the whole, or separate certificates for subdivisions thereof, [issued] entered in place of the [surrendered] canceled certificates; provided that if any person or persons other than the registered owner appear to have an interest in any part of the premises proposed to be consolidated, or in any intervening roadway, stream, or strip of land as aforesaid, the court shall not entertain the application for consolidation unless the other person or persons join with the owner in the application, signing and acknowledging the same in the same manner as provided for original applications, or unless the person or persons if not joining in the application have been given notice thereof and an opportunity to be heard as shall be ordered by the court.

Any owner proposing to combine two or more parcels of land, or to subdivide any registered land, shall file with the court an application therefor, together with a map or plan showing the proposed combination or subdivision and accurately delineating thereon all boundaries, streets, passage ways, and other easements connected therewith. The court, before approving the same, and authorizing the issuance of any new certificate or certificates thereon, shall cause the same to be verified by the department of accounting and general services and be satisfied that the same are accurately represented, and that the applicant has complied with the laws and regulations covering subdivisions in the county concerned, applicable thereto."

SECTION 6. Section 501-88, Hawaii Revised Statutes, is amended to read as follows:

"§501-88 Certificate as evidence. The original certificate in the registration book, and any copy thereof duly certified under the signature of the registrar or

assistant registrar, and the seal of the court, [and also the owner's duplicate certificate,] shall be received as evidence in all the courts of the State and shall be conclusive as to all matters contained therein, except as otherwise provided in this chapter."

SECTION 7. Section 501-103, Hawaii Revised Statutes, is amended to read as follows:

"§501-103 Conveyances of less than fee simple. No new certificate shall be entered or issued upon any transfer of registered land which does not divest the title in fee simple from the owner or one of the registered owners. All interests in registered land less than an estate in fee simple shall be registered by filing or recording with the assistant registrar the instrument creating or transferring or claiming such interest, and by a brief memorandum thereof made by the assistant registrar upon the certificate of title, and signed by the assistant registrar. [A similar memorandum shall also be made on the owner's duplicate.] The cancellation or extinguishment of such interests shall be registered in the same manner."

SECTION 8. Section 501-106, Hawaii Revised Statutes, is amended to read as follows:

"§501-106 [Presentation of owner's duplicate on entry of new certificate.] Entry of new certificate. No new certificate of title shall be entered, and no memorandum shall be made upon any certificate of title by the registrar or assistant registrar, except in pursuance of any deed or other voluntary instrument, [unless the owner's duplicate certificate is presented with the instrument, except] or in cases expressly provided for in this chapter or upon the order of the court, for cause shown. Whenever such order is made, a memorandum thereof shall be entered on the new certificate of title [and on the owner's duplicate]. [The production of the owner's duplicate certificate whenever any voluntary instrument is presented for registration shall be conclusive authority from the registered owner to the registrar or assistant registrar to enter a new certificate or to make a memorandum of registration in accordance with the instrument, and the] The new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under the registered owner, in favor of every purchaser for value and in good faith; provided that in all cases of registration procured by fraud the owner may pursue all the owner's remedies against the parties to the fraud, without prejudice however to the rights of any innocent holder for value of a certificate of title; and provided further that after the transcription of the decree of registration on the original application any subsequent registration under this chapter procured by the presentation of a [forged duplicate certificate, or] forged deed or other instrument, shall be void. [In case of the loss or theft of an owner's duplicate certificate notice shall be sent by the owner or by some one in the owner's behalf to the assistant registrar as soon as the loss or theft is discovered.]"

SECTION 9. Section 501-108, Hawaii Revised Statutes, is amended to read as follows:

"§501-108 Conveyance of fee; procedure. 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 the assistant registrar shall not accept for registration any deed, mortgage, lease, or other voluntary instrument, 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.

The assistant registrar shall note upon all documents filed or recorded concurrently with the recorded instrument the document number and the certificate of title number in the spaces provided therefor wherever required.

[The grantor's duplicate certificate shall be produced and presented at the same time.] The assistant registrar shall thereupon, in accordance with the rules and instructions of the court, make out in the registration book a new certificate of title to the grantee[, and shall prepare and deliver to the grantee an owner's duplicate certificate]. The assistant registrar shall note upon the original [and duplicate] certificate[s] the date of transfer, [the volume and page of the registration books where the new certificate is registered,] and a reference by number to the last prior certificate. [The grantor's duplicate certificate shall be surrendered, and the word "canceled" stamped upon it.] The original certificate shall [also] be stamped "canceled." The deed of conveyance shall be filed or recorded and indorsed with the number and place of registration of the certificate of title of the land conveyed."

SECTION 10. Section 501-109, Hawaii Revised Statutes, is amended to read as follows:

"§501-109 Portion of registered fee. When a deed in fee is for part only of the land described in a certificate of title the assistant registrar shall also enter a new certificate [and issue an owner's duplicate] to the grantor for the part of the land not included in the deed. In every case of transfer the new certificate or certificates shall include all the land described in the original [and surrendered] certificate[s]; provided that no new certificate to a grantee of a part only of the land shall be invalid by reason of the failure of the assistant registrar to enter a new certificate to the grantor for the remaining unconveyed portion. In case the land described in a certificate of title is divided into lots, designated by numbers or letters, with measurements of all the bounds, and a plan of the land has been filed with the registrar and verified pursuant to section 501-85; and a certified copy thereof is filed with the assistant registrar bearing the same number as is given to the application, and which plan is filed separately by such number, apart from the registration book containing the original certificate, but which certificate has indorsed thereon a reference to the filed plan, when the registered owner makes a deed or transfer in fee of one or more of such lots, the assistant registrar may, instead of canceling the certificate and entering a new certificate to the grantor for the part of the land not included in the deed of transfer, enter on the original certificate [and on the owner's duplicate certificate] a memorandum of the deed of transfer, with a reference to the lot or lots thereby conveyed as designated on the plan, and a statement that the certificate is canceled as to the lot or lots. Every certificate with the memorandum is as effectual for the purpose of showing the grantor's title to the remainder of the land not conveyed as if the old certificate had been canceled and a new certificate of the land had been entered. This process may be repeated so long as there is convenient space upon the original certificate [and the owner's duplicate certificate] for making the memorandum of sale of lots."

SECTION 11. Section 501-117, Hawaii Revised Statutes, is amended to read as follows:

"§501-117 Procedure. Registration of a mortgage shall be made in the manner following: [the owner's duplicate certificate] the mortgage shall be presented to the assistant registrar [with the mortgage deed. The assistant registrar] who shall enter upon the original certificate of title [and also upon the owner's duplicate certificate] a memorandum of the purport of the mortgage [deed], the time of filing or recording, the document number of the [deed] mortgage, and shall sign the

memorandum. The assistant registrar shall also note upon the mortgage [deed] the time of filing or recording, and a reference to the volume and page of the registration book where it is registered.”

SECTION 12. Section 501-118, Hawaii Revised Statutes, is amended to read as follows:

“§501-118 Foreclosure. Mortgages of registered land may be foreclosed like mortgages of unregistered land.

In case of foreclosure by action, a certified copy of the final judgment of the court confirming the sale may be filed or recorded with the assistant registrar or the deputy after the time for appealing therefrom has expired and the purchaser shall thereupon be entitled to the entry of a new certificate.

In case of foreclosure by exercising the power of sale without a previous judgment the affidavit required by section 667-5 shall be filed or recorded and registered with the assistant registrar. The purchaser or the purchaser’s assigns at the foreclosure sale may thereupon at any time present the deed under the power of sale to the assistant registrar for filing or recording and registration, and obtain a new certificate[, the owner’s duplicate certificate being first delivered up and canceled]. Nothing in this chapter shall be construed to prevent the mortgagor or other person in interest from directly impeaching by action or otherwise, any foreclosure proceedings affecting registered land, prior to the entry of a new certificate of title.

After a new certificate of title has been entered no judgment recovered on the mortgage note for any balance due thereon shall operate to open the foreclosure or affect the title to registered land.”

SECTION 13. Section 501-131, Hawaii Revised Statutes, is amended to read as follows:

“§501-131 Transfer in trust; procedure. Whenever a deed or other instrument is filed or recorded for the purpose of transferring registered land in trust, or upon any equitable condition or limitation expressed therein, or for the purpose of creating or declaring a trust or other equitable interest in land without transfer, the particulars of the trust, condition, limitation, or other equitable interest shall not be entered on the certificate; but a memorandum thereon shall be entered by the words “in trust,” or “upon condition,” or other apt words, and by a reference by number to the instrument authorizing or creating the same. [A similar memorandum shall be made upon the duplicate certificate.] The assistant registrar shall note upon the original instrument creating or declaring the trust or other equitable interest a reference by number of the certificate of title to which it relates. If the instrument creating or declaring a trust or other equitable interest is already recorded in the bureau of conveyances or admitted to probate, or any order of a federal court creating or declaring a trust in real property has been made, a certified copy may be filed or recorded by the assistant registrar and registered.”

SECTION 14. Section 501-133, Hawaii Revised Statutes, is amended to read as follows:

“§501-133 New trustee. When a new trustee of registered land is appointed either by any court or otherwise, a new certificate may be entered upon presentation to the assistant registrar of a certified copy of the order or deed of appointment [and the surrender of the duplicate certificate.]”

SECTION 15. Section 501-137, Hawaii Revised Statutes, is repealed.

SECTION 16. Section 501-155, Hawaii Revised Statutes, is amended to read as follows:

“§501-155 Judgment directing conveyance. Any judgment of a court of competent jurisdiction affecting title or rights in registered land, may be registered, whether the claim adjudicated was legal or equitable in nature. [The court entering the judgment upon application of the plaintiff may require the registered owner to deliver the registered owner’s duplicate certificate to the plaintiff to be canceled or to have a memorandum entered upon it by the assistant registrar.] Every instrument necessary to give effect to the judgment and directed by the court to be executed, whether executed by a party or by some other person appointed by the court, shall be registered and shall have full force and effect to bind the land to be affected thereby. A judgment entered in lieu of directing a conveyance, and having the effect of a conveyance, shall be registered with like force and effect.”

SECTION 17. Section 501-156, Hawaii Revised Statutes, is amended to read as follows:

“§501-156 Partition. In an action for partition of registered land, after the entry of the final judgment of partition and the acceptance of the report of the commissioners, if any, a copy of the judgment and of the return of the commissioners, certified by the clerk or registrar, as the case may be, shall be filed or recorded and registered. Thereupon, in case the land is set off to the owners in severalty, any owner is entitled to have a certificate entered of the share set off to the owner in severalty[, and to receive an owner’s duplicate therefor]. In case the land is ordered by the court to be sold, the purchaser or the purchaser’s assigns are entitled to have a certificate of title entered on presenting the deed of the commissioners for registration; provided that any new certificate entered in pursuance of partition proceedings, whether by way of setoff or of sale, shall contain a reference to the final judgment of partition, and shall be conclusive as to the title to the same extent and against the same persons as the judgment is made conclusive by the statutes applicable thereto. Any person holding such certificate of title or a transfer thereof may petition the court at any time to cancel the memorandum relating to the judgment and the court, after notice and hearing, may grant the application. The certificate thereafter is conclusive in the same manner and to the same extent as other certificates of title.”

SECTION 18. Section 501-158, Hawaii Revised Statutes, is amended to read as follows:

“§501-158 Notice of bankruptcy proceedings. Whenever a petition in bankruptcy which contains or has indorsed upon it a reference to the number of the certificate of title of the land affected is filed or recorded within the State by or against the owner of registered land, the assistant registrar of the land court shall note the fact by the entry of an appropriate memorandum on the owner’s certificate in the registration book. Thereafter, except where the owner’s interest in the land cannot be affected by the bankruptcy proceedings, no conveyance by the owner respecting the registered land shall be accepted for registration unless the conveyance recites that it is made subject to the rights of the trustee in bankruptcy. A trustee in bankruptcy is entitled to the entry of a new certificate for the registered land upon presenting and filing or recording [the bankrupt’s duplicate certificate of title together with] a certified copy of either the petition in bankruptcy (the schedules may be omitted), or the decree of adjudication of bankruptcy, or the order approving the trustee’s bond; provided that the instrument contains or has indorsed upon it a

reference to the number of the certificate of title of the land affected. The new certificate shall state that it is entered to the trustee in bankruptcy.”

SECTION 19. Section 501-159, Hawaii Revised Statutes, is amended to read as follows:

“§501-159 Decree of discharge. Whenever proceedings in bankruptcy against a registered owner of which notice has been registered, are vacated, or when the court of bankruptcy orders a reconveyance of land to a bankrupt debtor, a certified copy of the order or decree may be filed or recorded and registered. If a new certificate has been entered to the trustee in bankruptcy, as registered owner, the debtor is entitled to the entry of a new certificate, [and the certificate of the trustee shall be surrendered].”

SECTION 20. Section 501-171, Hawaii Revised Statutes, is amended to read as follows:

“§501-171 Registration upon transfer by descent and devise. (a) When the owner of registered land, or of any estate or interest therein, dies, having devised the same by will, the person or persons entitled thereto may file or record with the assistant registrar of the land court [the duplicate certificate issued to the testator,] a correct statement of the full names of the devisees, the residence or post office address of each and their marital status and a reference to the number of the certificate of title of the land affected, a certified copy of the will, either a certified copy of the order of the circuit court admitting it to probate or a certified copy of the written statement of the registrar of the circuit court admitting it to informal probate, and a certified copy of an order of the circuit court determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the [duplicate] certificate issued to the testator, and [issue] enter a new [duplicate] certificate or certificates to the devisee or devisees. When the owner of registered land or of any estate or interest therein dies, not having devised the same, the persons entitled thereto by law may file or record with the assistant registrar [the duplicate certificate issued to the intestate,] a correct statement of the full names of the heirs, the residence or post office address of each, and their marital status, a certified copy of the judgment of the circuit court in an action determining the heirs, or a certified copy of an order of the circuit court in probate proceedings determining the persons entitled to distribution of the registered land and directing or approving distribution, and thereupon the assistant registrar shall cancel the [duplicate] certificate issued to the intestate, and [issue] enter a new [duplicate] certificate or certificates to the heir or heirs entitled thereto.

(b) No voluntary instrument or deed of a personal representative, assignee for the benefit of creditors, sheriff, master, commissioner, or other officer purporting to transfer or create a lien or charge upon any estate or interest of any devisee or heir in registered land or to authorize the same to be done, shall have any effect to accomplish that purpose until the title of the heir or devisee is registered as herein provided. An involuntary lien, charge, or lis pendens against the interest of a relict, heir, or devisee in the lands of a deceased registered owner, prior to the registration of the title of such relict, heir, or devisee, only can be obtained by filing or recording the proper papers with the assistant registrar as in other cases, and the assistant registrar making entry thereof as a memorial on the registered certificate of title of the deceased owner, giving the name and residence or post office address of the relict, heir, or devisee against whom the lien, charge, or lis pendens is to operate.”

SECTION 21. Section 501-181, Hawaii Revised Statutes, is deleted in its entirety.

SECTION 22. Section 501-191, Hawaii Revised Statutes, is deleted in its entirety.

SECTION 23. Section 501-196, Hawaii Revised Statutes, is amended to read as follows:

“§501-196 Alterations upon registration book prohibited when; court hearings; limitations. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon, and the attestation of the same by the registrar or an assistant registrar except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate or any memorandum thereon[, or on any duplicate certificate]; or that the name of any person on the certificate has been changed; or that the registered owner has been married, or if registered as married that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution, or upon any other reasonable ground. The court shall have jurisdiction to hear and determine the petition after notice to all parties in interest and may order the entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper. This section shall not be construed to give the court authority to open the original decree of registration, and nothing shall be done or ordered by the court which impairs the title or other interest of a purchaser holding a certificate for value and in good faith, or the purchaser's heirs or assigns, without the purchaser's or their written consent.

Any petition filed under this section and all petitions and motions filed under this chapter after original registration shall be filed and entitled in the original case in which the decree of registration was entered.”

SECTION 24. Section 501-218, Hawaii Revised Statutes, is amended to read as follows:

“§501-218 Schedule of fees. Except where otherwise provided the fees payable under this chapter are as follows:

- (1) For every application filed pursuant to this chapter, including indexing and recording the same, and transmitting to registrar, when filed with assistant registrar, \$3.
- (2) For every plan filed, \$1.
- (3) For indexing any instrument recorded while application for registration is pending, 25 cents.
- (4) For examining title, \$10 and two-tenths of one per cent of the assessed value of the land and improvements on the basis of the last assessment for taxation, or the value of the same as determined under section 501-211 when the land was not separately assessed.
- (5) For verifying and checking map on the ground, for lots of one acre or less, \$25; an addition of \$1 an acre or fraction thereof for all area over one acre and up to one hundred acres; an addition of 50 cents an acre or fraction thereof for all area over one hundred acres and up to five hundred acres; an addition of 50 cents an acre or fraction thereof for all area over five hundred acres and up to one thousand acres; an

- addition of 25 cents an acre or fraction thereof for all area over one thousand acres.
- (6) For checking survey and map as to form and mathematical correctness but not on the ground, \$3 an hour.
 - (7) For approving subdivision of registered land, and for checking same as to form and mathematical correctness but not on the ground, \$3 an hour.
 - (8) For all services by a sheriff or other police officer under this chapter, the same fees as are now provided by law for like services.
 - (9) For each instrument affecting a title not reported in applicant's filed abstract of title, \$2.
 - (10) For filing an amended application, \$1.
 - (11) For each notice by publication, 25 cents.
 - (12) For entering any general default, \$1.
 - (13) For filing any answer, \$1, to be paid by the party filing the same.
 - (14) For every subpoena, \$1.
 - (15) For swearing each witness, 10 cents.
 - (16) For entering any discontinuance, \$1.
 - (17) For filing notice of appeal, \$30.
 - (18) For entry of order dismissing application, or decree of registration, and sending memorandum to assistant registrar, \$1.
 - (19) For copy of decree of registration, \$1.
 - (20) For entry of original certificate of title [and issuing owner's duplicate certificate], or for making and entering a new certificate of title [including issue of one owner's duplicate], \$25 if contained within four pages. For each additional page or fraction thereof, \$1.
 - (21) For [each owner's duplicate certificate after the first, \$10] a certified copy of any certificate of title, \$2 if contained within [four pages.] one page. For each additional page or fraction thereof, \$1.
 - (22) For the registration of every instrument, including entering, indexing, filing or recording, attesting registration, and making and attesting memorandum on certificates not in excess of four, \$10, except where herein otherwise provided, and \$1 for each additional memorandum on certificates in excess of four required by any one instrument.
 - (23) For the certification of a copy of any instrument, the same fees as are provided by section 502-25.
 - (24) For filing or recording and registering an adverse claim, \$3.
 - (25) For registration of an order for a suggestion of death, fact of marriage, divorce, subdivision, or notice of issue of an order in bankruptcy, \$10.
 - (26) For filing or recording any petition after original registration, \$1.
 - (27) For filing or recording any order after original registration, \$1.
 - (28) In all cases not expressly provided for by law the fees of all public officers for any official duty or service under this chapter shall be at a rate established by the court.
 - (29) For any application made by or in the name of the State, or any political subdivision thereof, any proceedings had upon such application or any dealing with registered land by the State, or any political subdivision thereof, as owner, no fees shall be charged."

SECTION 25. Chapter 501, Hawaii Revised Statutes, is amended to add an additional section as follows:

"§501- Outstanding owner's duplicate certificates. No owner's duplicate certificates of title shall be issued after the effective date of this Act, whether

the deed or other instrument upon which such would have been based was recorded before or after such effective date. Whenever a duplicate has been issued and is still outstanding, the assistant registrar shall require that the same be presented with any deed or other voluntary instrument to be filed or recorded affecting the land described therein. The assistant registrar shall thereupon cancel such owner's duplicate. The foregoing requirements for presenting such owner's duplicate certificate shall not apply if there shall be or has been presented to the assistant registrar a sworn statement by the registered owner of the subject land that such owner's duplicate has been lost or destroyed. The assistant registrar shall keep a record of such canceled owner's duplicate certificates and of such affidavits.

All references in this chapter to the holder, receiver or taker of a certificate of title, or similar references, shall refer to the party registered as the owner in the certificate of title on file in the office of the assistant registrar. In case of a variance between the outstanding owner's duplicate certificate and the original certificate the original shall prevail."

SECTION 26. Section 501-107, Hawaii Revised Statutes, is amended to read as follows:

"§501-107 Entry record; duplicates and certified copies. The assistant registrar shall keep a record in which shall be entered all deeds and other voluntary instruments, and all copies of writs or other process filed or recorded with the assistant registrar relating to registered land. The assistant registrar shall note in the record the date of reception of all instruments. The instruments shall be stamped with the date, hour, and minute of reception and shall be regarded as registered from the date and time so noted, and the memorandum of each instrument when made on the certificate of title to which it refers shall bear the same date.

Every deed or other instrument, whether voluntary or involuntary, so filed or recorded with the registrar or assistant registrar shall be numbered and indexed, and indorsed with a reference to the proper certificate of title. All records relating to registered land in the office of the registrar or of the assistant registrar shall be open to the public in the same manner as probate records are open, subject to such reasonable regulations as the registrar, under the direction of the court, may make.

[Duplicates of all deeds and voluntary instruments, filed or recorded and registered may be presented with the originals, and shall be attested and sealed by the registrar or the assistant registrar and indorsed with the file number and other memoranda on the originals, and may be taken away by the person presenting the same. No more than two duplicates of such deeds and instruments shall be certified by the registrar without charge, and copies in excess thereof shall be certified upon the payment of 25 cents per page.]

Certified copies of all instruments filed or recorded and registered may also be obtained at any time on payment of the assistant registrar's fees."

SECTION 27. Section 501-221, Hawaii Revised Statutes, is deleted in its entirety.

SECTION 28. Statutory material to be repealed is bracketed. New statutory material is underscored.²

SECTION 29. This Act shall take effect upon its approval.

(Approved June 14, 1988.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.