

ACT 203

H.B. NO. 3428

A Bill for an Act Relating to Judgments.

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

SECTION 1. The legislature finds that the present statutory requirements for the filing and recording of judgments in the land court and bureau of conveyances must be amended to impose additional safeguards to properly identify persons, corporations, partnerships, and other entities against whom judgments are entered. The present system for filing and recording of judgments utilizing names fails to identify persons, corporations, partnerships, and other entities properly. In numerous instances, lien free individuals and entities against whom judgments have been filed have been delayed in completing real estate sales and loan transactions until the confusion has been resolved.

The legislature finds that this misidentification of individuals and entities hinders and obstructs the free flow of economic transactions, and adversely affects the credit ratings of persons, corporations, partnerships, and other entities in our State. The legislature further finds that the promotion of the State's economic well-being is a matter of compelling state interest.

The purpose of this Act is to mandate that all judgments recorded or registered with the land court or the bureau of conveyances, or both, either:

- (1) Contain or have endorsed on it either:
 - (A) The social security number;
 - (B) State of Hawaii general excise taxpayer identification number;
 - (C) Or federal employer identification number of the person, corporation, partnership, or other entity against whom the judgment is rendered; or
- (2) Be accompanied by a certificate that provides that the information required under item (1) does not exist or is not in the possession of the party seeking registration or recordation of the judgment.

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

“§501-151 Pending actions, judgments; recording of, notice. No writ of entry, action for partition, or any action affecting the title to real property or the use and occupation thereof or the buildings thereon, and no judgment, nor any appeal or other proceeding to vacate or reverse any judgment, shall have any effect upon registered land as against persons other than the parties thereto, unless a full memorandum thereof, containing also a reference to the number of certificate of title of the land affected is filed or recorded and registered. Except as otherwise provided, every judgment shall contain or have endorsed on it the social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number for persons, corporations, partnerships or other entities against whom the judgment is rendered. If the judgment debtor has no social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, the judgment shall be accompanied by a certificate that provides that

the information does not exist or is not in the possession of the party seeking registration of the judgment. Failure to disclose or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon registration of the judgment. This section does not apply to attachments, levies of execution, or to proceedings for the probate of wills, or for administration in a probate court; provided that in case notice of the pendency of the action has been duly registered it is sufficient to register the judgment in the action within sixty days after the rendition thereof.

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

Notice of the pendency of an action in a United States District Court, as well as a state court, may be filed or recorded and registered."

SECTION 3. Section 502-33, Hawaii Revised Statutes, is amended to read as follows:

"§502-33 Identification of assignments, etc., of mortgages and leases by reference to registration of original. The registrar shall not record any assignment, extension, or release of mortgage of real property, or an affidavit of foreclosure under a power contained in a mortgage, or a writ, order, or judgment, for possession of the premises covered by any mortgage, or an assignment, extension, or cancellation of lease, unless the same contains a reference to the book and page or document number of the registration of the original mortgage or lease, as the case may be. Except as otherwise provided, every judgment shall contain or have endorsed on it the social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number for persons, corporations, partnerships, or other entities against whom the judgment is rendered. If the judgment debtor has no social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, the judgment shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking registration of the judgment. Failure to disclose or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon registration of the judgment. No amendment, continuation statement, termination statement, statement of assignment, or statement of release relating to security interests in goods which are or are to become fixtures shall be filed unless it complies with the requirements of the Uniform Commercial Code, section 490:9-408. This section does not apply to any document mentioned herein executed prior to April 13, 1915; and this section does not apply to any document mentioned herein which refers to an unrecorded mortgage or lease, if such fact be recited therein."

SECTION 4. Section 504-1, Hawaii Revised Statutes, is amended to read as follows:

"§504-1 Registration of federal judgments. Judgments of United States courts may be registered, recorded, docketed, and indexed in the bureau of conveyances or with the assistant registrar of the land court in the same manner as judgments of the courts of the State. Except as otherwise provided, every judgment shall contain or have endorsed on it the social security number, State

of Hawaii general excise taxpayer identification number, or federal employer identification number for persons, corporations, partnerships, or other entities against whom the judgment is rendered. If the judgment debtor has no social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking the registration, recordation, docketing, or indexing of the judgment, the judgment shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking registration, recordation, docketing, or indexing of the judgment. Failure to disclose or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon the registration, recordation, docketing, or indexing of the judgment.”

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

“§636-3 Judgment, lien when. Any money judgment or decree of a state court or the United States District Court for the District of Hawaii shall be a lien upon real property when a copy thereof, certified as correct by a clerk of the court where it is entered, is recorded in the bureau of conveyances. No such lien shall continue beyond ten years after the date of the judgment. Except as otherwise provided, every judgment shall contain or have endorsed on it the social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number for persons, corporations, partnerships, or other entities against whom the judgment is rendered. If the judgment debtor has no social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, the judgment shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking recordation of the judgment. Failure to disclose or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recordation of the judgment. When any such judgment is fully paid, the creditor or the creditor’s attorney of record in the action shall, at the expense of the debtor, execute, acknowledge, and deliver to the debtor a satisfaction thereof, which may be recorded in the bureau. Every satisfaction or assignment of judgment shall contain a reference to the book and page or document number of the registration of the original judgment. The recording fees for a judgment and for each assignment or satisfaction of judgment shall be as provided by section 502-25.

In the case of registered land, section 501-102 shall govern.”

SECTION 6. Section 636C-3, Hawaii Revised Statutes, is amended to read as follows:

“[§636C-3] Filing and status of foreign judgments. A copy of any exemplified foreign judgment may be filed in the office of the clerk of the appropriate court of this State. The clerk shall treat the foreign judgment in the same manner as a judgment of a court of this State. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for

ACT 203

reopening, vacating, or staying as a judgment of a court of this State, including establishing a lien, and may be enforced or satisfied in like manner.”

SECTION 7. This Act shall not apply to any judgment duly entered before January 1, 1991.

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect on January 1, 1991.

(Approved June 19, 1990.)