

ACT 178

H.B. NO. 1983

A Bill for an Act Relating to the Land Court.

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

SECTION 1. Section 501-20, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:
““State” means the State of Hawaii.”

SECTION 2. Section 501-21, Hawaii Revised Statutes, is amended to read as follows:

“§501-21 Registration application; by whom made. Application for registration of title may be made by [the following persons]:

- (1) The persons who claim, singly or collectively, to own the legal estate or easements or rights in land held and possessed in fee simple, either as a whole or as owner or owners of an undivided part;
- (2) The persons who claim, singly or collectively, to have the power of appointing or disposing of the legal estate or easements or rights in land held and possessed in fee simple, either as a whole or as owners of an undivided part;
- (3) Infants and other persons under disability, by their legally appointed guardians;
- (4) A corporation by its proper officer or by an agent duly authorized by the board of directors;
- (5) An unincorporated nonprofit association by a person authorized in a statement of authority recorded in the office of the assistant registrar of the land court or with the registrar of conveyances in the bureau of conveyances;
- (6) Any personal representative duly appointed by the proper probate court, and duly authorized so to do by an order of court. For the purpose of registering title, such representative shall be a trustee of any title registered for the heirs of the estate, and be subject to the decree of distribution of the court of probate; and

- (7) Any political subdivision of the State by its mayor, after resolution duly passed by its council so directing; the State, by the board of land and natural resources; or the government of the United States by any proper officer thereof thereunto duly authorized.

The basis for determining the fees payable in the registration of the easements and rights above stated shall, instead of the assessed valuation, be the value of the same as found by the land court and instead of the fee for examination of title chargeable under section 501-218, the fee shall be the actual amount allowed by the court to the examiner therefor.

The provisions relative to the registration and conveyance of registered land shall apply to the registration and conveyance of easements and rights.”

SECTION 3. Section 501-102, Hawaii Revised Statutes, is amended to read as follows:

“§501-102 Filing liens, etc., notice. (a) Every conveyance, lien, attachment, order, decree, instrument, or entry affecting registered land, which would under existing laws, if recorded, filed, or entered in the bureau of conveyances, affect the real estate to which it relates, shall, if registered, filed, or recorded, or entered in the office of the assistant registrar in the bureau of conveyances, be notice to all persons from the time of such registering, filing, recording, or entering[.] and shall contain a reference to the number of the certificate of title and an indorsement of the current certificate of title, if applicable, of the land to be affected.

(b) This section shall not be construed to relate to state or federal tax liens or child support liens that are created pursuant to order or judgment filed through judicial or administrative proceeding in this State or in any other state, the recording of which shall be as provided by chapters 231, 505, and 576D, respectively. The recordation of the child support order or judgment in the bureau of conveyances shall be deemed, at such time, for all purposes and without any further action, to place a lien on land registered in the land court under this chapter.”

SECTION 4. Section 501-108, Hawaii Revised Statutes, is amended to read as follows:

“§501-108 Conveyance of fee; procedure. (a) 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 and an indorsement of the current certificate of title, if applicable, 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 instruments 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 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. The assistant registrar shall note upon the original certificate the date of transfer, and a reference by number to the last prior certificate. The original certificate shall 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.

(b) On all instruments to be filed or recorded, the top three and one-half inches of space of the first page shall be reserved for recording information for the

assistant registrar on the left half of that space, and for the registrar of conveyances on the right half of that space. The following one inch of space shall be reserved for information showing to whom the document should be returned. In addition, the first page shall identify and include, if possible, all names of the grantors and all names and addresses of the grantees, the type of document, and the tax map key number. Indorsements, if any, shall be made on a conforming fly sheet. If an instrument consists of more than one page, [it] each page shall be single-sided sheets of written text numbered consecutively, beginning with number one, and shall be stapled once in the upper left corner. No instrument shall have a cover or backer attached. The assistant registrar shall be permitted to remove any rivets affixed to any instrument.

(c) All names of all natural persons signing in their individual capacity in the instrument shall be typewritten, stamped, or printed by some other mechanical or electrical printing method beneath all signatures. No discrepancy in any name shall exist between the printed name, as it appears either in the body of the instrument, beneath the signature, or in the notary's certificate of acknowledgment. The provisions of this [paragraph] subsection shall not apply to any deed or conveyance instrument executed prior to July 1, 1989.

(d) The assistant registrar may refuse to file or record any instrument that will not reproduce legibly under photographic or electrostatic methods, or that is of a size larger than eight and one-half inches by fourteen inches, or that contains a schedule, inventory sheet, or map in excess of that size.''

SECTION 5. Section 501-171, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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] shall file or record with the assistant registrar of the land court 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,] letters appointing the personal representative showing the powers of the personal representative, and either 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[,] or a deed from the personal representative to the devisee or devisees, and thereupon the assistant registrar shall cancel the certificate issued to the testator, and enter a new 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] shall file or record with the assistant registrar 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] letters appointing the personal representative showing the powers of the personal representative, and either 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[,] or a deed from the personal representative to the heir or heirs, and thereupon the assistant registrar shall cancel the certificate issued to the intestate, and enter a new certificate [or certificates] to the heir or heirs entitled thereto.’’

SECTION 6. Section 501-173, Hawaii Revised Statutes, is amended to read as follows:

“§501-173 Purchaser acquiring title through personal representative may have the same registered. If any personal representative is authorized by the terms of any will to grant, bargain, sell, convey, mortgage, or otherwise deal with registered land, the personal representative may do so in the same manner as if the land were registered in the representative’s name as personal representative. Before any instrument executed by the personal representative, pursuant to such authority, is filed or recorded with the assistant registrar of the land court, there shall be first filed or recorded with the assistant registrar [a certified copy of the will together with a certified copy of the order of the circuit court admitting the same 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 the letters[, on which shall be listed all orders of the circuit court relating to the personal representative’s authority to grant, bargain, sell, convey, mortgage, lease, or otherwise deal with real property,] appointing the personal representative showing the powers of the personal representative, or a certified copy of an order granting the petition for authority or an acknowledgment of authority, and either a certified copy of [each such order.] the order of the circuit court confirming the sale of the affected land or a certified copy of an affidavit filed in the circuit court of the personal representative made at the time of the deed, mortgage, lease, or other conveyance, attesting that the decedent’s will does not require confirmation of the transaction and that no devisee or heir has demanded the confirmation. Any person who acquired title or any interest in registered land through or by virtue of the execution of the power vested in the personal representative may have the title or interest registered.”

SECTION 7. 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] approval of the same by the registrar or an assistant registrar except by order of the court[.] recorded with the assistant registrar, provided that the registrar or assistant registrar may correct any clerical error made by personnel of the registrar’s or assistant registrar’s office. 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 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.

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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 8. This Act shall not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, prior to its effective date.

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect on July 1, 2000.

(Approved June 7, 2000.)