

## ACT 67

S.B. NO. 2224

A Bill for an Act Relating to the Tax Lien and Encumbrance Record.

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

SECTION 1. The legislature finds that there is a need to expand the ability of state and county agencies to pursue reimbursement of outstanding debts because many debtors ignore payment obligations and recovery efforts by state and county agencies. The legislature also finds that encumbrances on real property and motor vehicles are an effective mechanism to increase the likelihood of recovering outstanding debts.

Currently, agencies may record liens or claims with the director of finance of each county, but are required to pay a statutory fee that is deposited into the general fund. The legislature finds that the fee is hindering some agencies from utilizing the tax lien and encumbrance record to assist in recovery of outstanding debts owed to the agency.

The purpose of this Act is to:

- (1) Clarify that judgments are also valid claims for purposes of encumbrances recorded in the tax lien and encumbrance record;
- (2) Allow a taxpayer to enter into a payment agreement with the department of taxation to avoid a lien and encumbrance recordation; and
- (3) Clarify that state and county agencies are not required to pay a fee for the recording of an entry in the tax lien and encumbrance record, under certain conditions.

SECTION 2. Section 286-46, Hawaii Revised Statutes, is amended to read as follows:

**“§286-46 Tax lien and encumbrance record.** (a) The director of finance shall keep a book or record to be known as the “tax lien and encumbrance record” in which the following information shall be entered:

- (1) Notices of liens for internal revenue taxes payable to the United States and certificates of release thereof;

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- (2) Notices of liens ~~[or]~~, taxes, or judgments payable to the State or county and certificates of release thereof;
- (3) Notices of seizure in accordance with law of any registered motor vehicle upon any writ of attachment, execution, or other process issued under authority of law;
- (4) Notices of restraining order or other order affecting the registration of any registered motor vehicle;
- (5) Notice of any proceeding or action affecting the title of a registered motor vehicle or the interest of the owner or legal owner thereof; and
- (6) Notice of release of any of the foregoing.

(b) With the exception of delinquent taxes and penalties imposed by section 249-10, the record shall show the year, month, day, hour, and minute at which the notice has been filed with the director of finance, shall show the nature and kind of lien or encumbrance claimed, the amount of tax or other claim, with interest, penalties, and costs, and shall identify the registered motor vehicles affected by the lien or encumbrance, and shall contain such further information as the director of finance may require. The record shall be a public record and may be arranged in such manner as the director of finance determines.

The interest of the owner or the legal owner in the motor vehicle shall not be deemed to be affected until the notice referred to in subsection (a)(1) to (5) has been filed with the director of finance in such form as the director of finance shall prescribe for entry in the tax lien and encumbrance record; provided the director of finance may require the payment of delinquent taxes and penalties as a condition precedent to the vehicle's renewal, registration, or transfer of ownership~~[-]; provided further that a taxpayer may enter into a payment plan with the director of taxation in lieu of paying a tax delinquency in full, in which case an entry in the tax lien and encumbrance record shall be avoided.~~ The director of finance shall charge a fee of \$5 for each entry made in the tax lien and encumbrance record, which shall be deposited in the general fund~~[-]; provided that state and county agencies shall not be charged a fee for any entry made in the tax lien and encumbrance record if the state or county agency provides to the director of finance the license plate number or vehicle identification number of the vehicle to be flagged.~~

Nothing in this section shall be deemed to alter or amend any statute relating to tax liens or the enforcement thereof."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 2012.

(Approved April 24, 2012.)