

ACT 119

H.B. NO. 423

A Bill for an Act Relating to Bureau of Conveyances.

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

SECTION 1. The purpose of this Act is to separate voluntary deregistration of fee non-time share interests from the deregistration provisions under part II of chapter 501, Hawaii Revised Statutes, and to repeal the sunset provision under Act 120, Session Laws of Hawaii 2009, as it applies to deregistration fee time share interests, but preserve the sunset provision for the deregistration of fee non-time share interests.

SECTION 2. Chapter 501, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

“§501- Deregistration of registered land other than fee time share interests. The registered owner of the fee interest in registered land may submit a written request to the assistant registrar to deregister the land under this chapter.

- (1) Any written request for deregistration shall include proof of title insurance in the amount of the value of the land to be deregistered and a written waiver of all claims against the State relating to the title to the land arising after the date of deregistration.
- (2) Upon presentation to the assistant registrar of a written request for deregistration by the registered owner of the fee interest in registered land, the assistant registrar shall not register the same, but shall:
 - (A) Record in the bureau of conveyances, pursuant to chapter 502, the current certificate of title for the fee interest in the regis-

tered land; provided that prior thereto, the assistant registrar shall note on the certificate of title all documents and instruments that have been accepted for registration and that have not yet been noted on the certificate of title for the registered land;

- (B) Record in the bureau of conveyances, pursuant to chapter 502, the written request for deregistration presented to the assistant registrar for filing or recording. The request shall be recorded immediately after the certificate or certificates of title; and
 - (C) Cancel the certificate of title.
- (3) The registrar or assistant registrar shall note the recordation and cancellation of the certificate of title in the registration book and in the records of the application for registration of the land that is the subject of the certificate of title. The notation shall state the bureau of conveyances document number for the certificate of title so recorded, the certificate of title number, and the land court application number, map number, and lot number for the land that is the subject of the certificate of title so recorded.
 - (4) No order of court shall be required prior to or in connection with the performance of any of the foregoing actions.”

SECTION 3. Section 501-20, Hawaii Revised Statutes, is amended by amending the definitions of “date and time of deregistration” and “deregistered land” to read as follows:

““Date and time of deregistration” means:

- (1) The date and time that a certificate of title for land, other than a fee time share interest, is recorded in the bureau of conveyances pursuant to [section 501-261;] chapter 502 and part II of this chapter;
- (2) The date and time, if prior to July 1, 2012, when a certificate of title for a fee time share interest was recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter, whether such certificate of title was or is certified by the assistant registrar prior to, subsequent to, or on July 1, 2012;
- (3) July 1, 2012, at 12:01 a.m. for all other fee time share interests then in existence and for which a certificate of title was not recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter prior to July 1, 2012; and
- (4) For all fee time share interests not yet in existence as of July 1, 2012, at 12:01 a.m., the date and time of recordation of the declaration, declaration of annexation, or other document or instrument establishing such fee time share interest.

“Deregistered land” means:

- (1) Land, other than a fee time share interest, that is the subject of a certificate of title recorded in the bureau of conveyances pursuant to [section 501-261;] chapter 502 and part II of this chapter;
- (2) A fee time share interest that is the subject of a certificate of title recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter prior to July 1, 2012, whether the certificate of title is certified by the assistant registrar on, before, or after July 1, 2012; and
- (3) All other fee time share interests.”

SECTION 4. Section 501-71, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Deregistration pursuant to [~~sections 501-261 to 501-269~~] part II of this chapter shall not alter or revoke the conclusive nature or effect of a decree of registration, which shall continue to quiet the title to the deregistered land as to all claims arising prior to the date and time of deregistration of the land, except claims as would not otherwise be barred under this chapter if the lands were not registered.”

SECTION 5. Section 501-108, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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 no deed, mortgage, lease, or other voluntary instrument shall be accepted by the assistant registrar for registration 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. If the certificate reference in the instrument is not current, an endorsement of the current certificate of title shall be required.

The assistant registrar shall note upon all instruments filed or recorded concurrently with the recorded instrument the document number, the certificate of title number, and, in the case of deregistered land, the bureau of conveyances document number in the spaces provided therefor wherever required.

Except as otherwise provided in [~~section 501-261-~~] part II of this chapter:

- (1) 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;
- (2) The assistant registrar shall note upon the original certificate the date of transfer, and a reference by number to the last prior certificate;
- (3) The original certificate shall be stamped “canceled”; and
- (4) The deed of conveyance shall be filed or recorded and endorsed with the number and place of registration of the certificate of title of the land conveyed.”

SECTION 6. Section 501-261, Hawaii Revised Statutes, is amended to read as follows:

“§501-261 Deregistration of fee time share interests. [~~(a) The registered owner of the fee interest in registered land may submit a written request to the assistant registrar to deregister the land under this chapter.~~

- (1) ~~Any written request for deregistration shall include proof of title insurance in the amount of the value of the land to be deregistered and a written waiver of all claims against the State relating to the title to the land arising after the date of deregistration.~~
- (2) ~~Upon presentation to the assistant registrar of a written request for deregistration by the registered owner of the fee interest in registered land, the assistant registrar shall not register the same, but shall:~~
 - (A) ~~Record in the bureau of conveyances, pursuant to chapter 502, the current certificate of title for the fee interest in the registered land; provided that prior thereto, the assistant registrar shall note on the certificate of title all documents and instruments that have been accepted for registration and that have not yet been noted on the certificate of title for the registered land;~~

(B) Record in the bureau of conveyances, pursuant to chapter 502, the written request for deregistration presented to the assistant registrar for filing or recording. The request shall be recorded immediately after the certificate or certificates of title; and

(C) Cancel the certificate of title.

(3) ~~The registrar or assistant registrar shall note the recordation and cancellation of the certificate of title in the registration book and in the records of the application for registration of the land that is the subject of the certificate of title. The notation shall state the bureau of conveyances document number for the certificate of title so recorded, the certificate of title number, and the land court application number, map number, and lot number for the land that is the subject of the certificate of title so recorded.~~

(4) ~~No order of court shall be required prior to or in connection with the performance of any of the foregoing actions.~~

(b)] The certificate of title for each fee time share interest shall be canceled effective as of the date and time of deregistration of such fee time share interest. Notwithstanding the provisions of section 501-261 in existence prior to July 1, 2012, a fee time share interest for which a certificate of title was not recorded in the bureau of conveyances pursuant to chapter 502 and part II of this chapter prior to July 1, 2012, shall be deregistered on July 1, 2012, at 12:01 a.m.

(1) Beginning on July 1, 2012, and continuing for so long as shall be reasonably necessary in the ordinary course of business, the assistant registrar shall:

(A) Note on the certificate of title for each fee time share interest all documents and instruments affecting the fee time interest:

(i) That were or are registered as of a date and time prior to the date and time of deregistration of the fee time share interest; and

(ii) That were not yet noted on the certificate of title of the fee time share interest as of the date and time of deregistration thereof; and

(B) Certify each certificate of title.

(2) Section 501-196 shall apply to a certificate of title updated pursuant to paragraph (1) upon approval of the same by the assistant registrar, which approval shall be evidenced by a certification of the assistant registrar endorsed upon the certificate of title. A certificate of title for a fee time share interest, including but not limited to a certificate of title recorded prior to July 1, 2012, pursuant to part II of this chapter 501, shall not be considered completed or approved, and shall be subject to modification by the assistant registrar, at any time prior to certification thereof by the assistant registrar. Subsequent to the certification, the certificate of title for a fee time share interest may only be modified pursuant to section 501-196 or as otherwise provided in this chapter.

(3) Upon certification of the certificate of title for a fee time share interest by the assistant registrar, the assistant registrar shall mark the certificate of title "canceled", note the cancellation of the certificate of title in the registration book, and notify the court of the cancellation. Regardless of the date upon which such administrative acts are performed, the cancellation of the certificate of title for a fee time share interest shall be effective as of the date and time of deregistration of that fee time share interest.

- (4) If only part of the land described in the certificate of title consists of a fee time share interest, then upon the petition of the registered owner of that portion of the registered land not constituting a fee time share interest, a new certificate of title shall be issued to such owner for that portion of the registered land not constituting a fee time share interest. If registered land is held in the condominium form of ownership, then for purposes of this subsection each unit for which a separate certificate of title has been issued shall be treated as if it were a separate parcel of registered land.
- (5) Except as provided in paragraph (4), no order of court shall be required prior to or in connection with the performance of any of the foregoing actions.”

SECTION 7. Section 501-262, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Neither voluntary deregistration of land other than a fee time share interest [~~pursuant to section 501-261~~] nor the mandatory deregistration of any fee time share interest pursuant to part II of this chapter, whether by recordation of a certificate of title in the bureau of conveyances prior to July 1, 2012, or by operation of law thereafter, shall disturb the effect of any proceedings in the land court where the question of title has been determined. All proceedings had in connection with the registration of title that relate to the settlement or determination of title before a certificate of title for land other than a fee time share interest is recorded in the bureau of conveyances pursuant to [section 501-261] chapter 502 and part II of this chapter or a certificate of title for a fee time share interest is certified and all provisions of this chapter that relate to the status of the title, shall have continuing force and effect with respect to the period of time that title remained under the land court system. Those provisions giving rise to a right of action for compensation from the State, including any limits on and conditions to the recovery of compensation and the State’s rights of subrogation with respect thereto, shall also continue in force and effect with respect to the period of time that title remained under the land court system.”

SECTION 8. Section 501-264, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) A certificate of title for land other than a fee time share interest recorded in the bureau of conveyances pursuant to [~~section 501-261,~~] chapter 502 and part II of this chapter, or certified by the assistant registrar in the case of a fee time share interest, shall constitute a new chain of record title in the registered owner of any estate or interest as shown on the certificate of title so recorded or certified, subject only to the following:

- (1) The estates, mortgages, liens, charges, instruments, documents, and papers noted on the certificate of title so recorded or certified;
- (2) Liens, claims, or rights arising or existing under the laws or Constitution of the United States, which the statutes of this State cannot require to appear of record in the registry; provided that notices of liens for internal revenue taxes payable to the United States, and certificates affecting the liens, shall be deemed to fall within this paragraph only if the same are recorded in the bureau of conveyances as provided by chapter 505;
- (3) Unpaid real property taxes assessed against the land and improvements covered by the certificate of title as recorded or certified, with interest, penalties, and other additions to the tax, which, unless a

notice is filed and registered as provided by county real property tax ordinance, shall be for the period of three years from and after the date on which the lien attached, and if proceedings for the enforcement or foreclosure of the tax lien are brought within the period, until the termination of the proceedings or the completion of the tax sale;

- (4) State tax liens, if the same are recorded in the bureau of conveyances as provided by section 231-33;
- (5) Any public highway, or any private way laid out under the provisions of law, when the certificate of title does not state that the boundary of the way has been determined;
- (6) Any lease, coupled with occupancy, for a term not exceeding one year; provided that the priority of the unrecorded lease shall attach only at the date of the commencement of the unrecorded lease and expire one year from the date or sooner if so expressed;
- (7) Any liability to assessments for betterments, or statutory liability that may attach to land as a lien prior to or independent of, the recording or registering of any paper of the possibility of a lien for labor or material furnished in the improvement of the land; provided that the priority of any liability and the lien therefor (other than for labor and material furnished in the improvement of the land, which shall be governed by section 507-43) shall cease and terminate three years after the liability first accrues unless notice thereof, signed by the officer charged with collection of the assessments or liability, setting forth the amount claimed, the date of accrual, and the land affected, is recorded in the bureau of conveyances pursuant to chapter 502 within the three-year period; and provided further that if there are easements or other rights, appurtenant to a parcel of deregistered land, which for any reason have failed to be deregistered, the easements or rights shall remain so appurtenant notwithstanding the failure, and shall be held to pass with the deregistered land until cut off or extinguished in any lawful manner;
- (8) The possibility of reversal or vacation of the decree of registration upon appeal;
- (9) Any encumbrance not required to be registered as provided in sections 501-241 to 501-248 and relating to a leasehold time share interest or leasehold interest in deregistered land; and
- (10) 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 chapter 576D.”

2. By amending subsections (c) and (d) to read:

“(c) All instruments, documents, and papers noted on a certificate of title recorded in the bureau of conveyances pursuant to ~~[section 501-261]~~ chapter 502 and part II of this chapter shall have the same force and effect as if they had been recorded in the bureau of conveyances pursuant to chapter 502 as of the date, hour, and minute of reception noted on the certificate of title pursuant to section 501-107; provided that:

- (1) No instrument, document, or paper shall have any greater or other effect after the certificate of title is recorded in the bureau of conveyances pursuant to ~~[section 501-261,]~~ chapter 502 and part II of this chapter, as constructive notice or otherwise, than it had or acquired at the time it was registered pursuant to this chapter or made; and

- (2) Nothing in this part shall be construed as giving any greater or other effect, as constructive notice or otherwise, to any instrument, document, or paper recorded in the bureau of conveyances pursuant to chapter 502 prior to the recordation of the certificate of title in the bureau of conveyances pursuant to [section 501-264] chapter 502 and part II of this chapter as to any land, than was provided by the laws of this State (including this chapter and other laws regarding registered land) in effect at the time the instrument, document, or paper was recorded.

(d) If a certificate of title recorded in the bureau of conveyances pursuant to [section 501-264] chapter 502 and part II of this chapter relates to more than one fee time share interest or more than one interest in other deregistered land, then subsection (a) shall apply to each interest separately and only those items described in subsection (a) that encumbered a particular interest prior to recordation of the certificate of title will continue to encumber that interest after the recordation.”

SECTION 9. Section 634-51, Hawaii Revised Statutes, is amended to read as follows:

“§634-51 Recording of notice of pendency of action. In any action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and any other party at the time of filing a pleading in which affirmative relief is claimed, or at any time afterwards, may record in the bureau of conveyances a notice of the pendency of the action, containing the names or designations of the parties, as set out in the summons or pleading, the object of the action or claim for affirmative relief, and a description of the property affected thereby. From and after the time of recording the notice, a person who becomes a purchaser or incumbrancer of the property affected shall be deemed to have constructive notice of the pendency of the action and be bound by any judgment entered therein if the person claims through a party to the action; provided that in the case of registered land, section 501-151, sections 501-241 to 501-248, and [sections 501-261 to 501-269] part II of chapter 501 shall govern.

This section authorizes the recording of a notice of the pendency of an action in a United States District Court, as well as a state court.”

SECTION 10. Section 636-3, Hawaii Revised Statutes, is amended to read as follows:

“§636-3 Judgment, orders, decrees; lien when. Any money judgment, order, 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 the length of time the underlying judgment, order, or decree is in force. Except as otherwise provided, every judgment shall contain or have endorsed on it the Hawaii tax identification number, the federal employer identification number, or the last four digits only of the social security number for persons, corporations, partnerships, or other entities against whom the judgment, order, or decree is rendered. If the debtor has no social security number, Hawaii tax identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, order, or decree, the judgment, order, or decree 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, Hawaii tax identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recordation of the judgment, order, or decree. When any judgment, order, or decree is fully paid, the creditor or the creditor's attorney of record in the action, at the expense of the debtor, shall execute, acknowledge, and deliver to the debtor a satisfaction thereof, which may be recorded in the bureau. Every satisfaction or assignment of judgment, order, or decree 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, order, or decree and for each assignment or satisfaction of judgment, order, or decree shall be as provided by section 502-25.

In the case of registered land, section 501-102, sections 501-241 to 501-248, and ~~sections 501-261 to 501-269~~ part II of chapter 501 shall govern.

The party seeking to record or register a judgment, order, or decree shall redact the first five digits of any social security number by blocking the numbers out on the copy of the judgment, order, or decree to be recorded or registered.”

SECTION 11. Act 120, Session Laws of Hawaii 2009, is amended by amending section 21 to read as follows:

“SECTION 21. This Act shall take effect on July 1, 2009; provided that section 2 of this Act shall take effect on July 1, 2011~~[-and shall be repealed on December 31, 2014]~~; provided further that section 16 of this Act shall take effect on July 1, 2009, and shall be repealed on the effective date of administrative rules adopted by the department of land and natural resources that address the establishment of transaction fees for each recording in the bureau of conveyances and in the office of the assistant registrar of the land court; provided further that section 17 of this Act shall take effect on January 1, 2012; and provided further that section 18 of this Act shall take effect upon its approval and shall be repealed on January 31, 2010.”

SECTION 12. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 13. This Act shall take effect upon its approval; provided that section 2 of this Act shall be repealed on December 31, 2014.

(Approved June 14, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.