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## A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that inefficiencies and a  
2 backlog of real estate recordings have existed at the bureau of  
3 conveyances and the land court for over ten years. While  
4 staffing shortages contributed to the problems at the agencies,  
5 management issues stemming from a lack of cooperation between  
6 the land court section and the regular section of the bureau of  
7 conveyances enabled deficiencies to fester.

8           Section 61 of Act 200, Session Laws of Hawaii 2003,  
9 appropriated funds for a workflow study at the bureau of  
10 conveyances, including a review of all areas of operation. In  
11 an effort to increase productivity, the legislature requested  
12 that the workflow study identify operational delays and  
13 recommend changes to current job descriptions. The June 2005  
14 operations review project prepared by Hoike Consulting LLC  
15 recognized a lack of teamwork between the regular receiving  
16 section and the land court receiving section. Staff between the  
17 two receiving sections would not assist each other when  
18 necessary. In addition, staff was disinterested in temporary



1 assignments to receiving clerk positions or other changes to the  
2 processes or organizational structure. One recommendation was  
3 to pool the staff and combine the two receiving sections. By  
4 pooling the staff, they could all assist in addressing the  
5 backlogs in each section. However, this requires a change in  
6 the reporting structure and cross training personnel in  
7 processing of both land court and regular system documents.

8 The bureau of conveyances is within the department of land  
9 and natural resources, whereas the land court is under the  
10 supreme court of the judiciary. There is a registrar of the  
11 land court and a registrar of the bureau of conveyances.  
12 However, pursuant to section 501-9, Hawaii Revised Statutes, the  
13 registrar of conveyances and the registrar of conveyances'  
14 deputy are assistant registrars of the land court for purposes  
15 of carrying out the land court recording and registration  
16 requirements.

17 Recently, a joint committee, established by Senate  
18 Concurrent Resolution No. 226 (2007), investigated the bureau of  
19 conveyances' operations in response to concerns regarding the  
20 security of recorded documents, private computer access,  
21 potential document tampering, and the overall personnel and  
22 fiscal management of the bureau of conveyances. The joint



1 committee also responded to a June 2006 financial audit of the  
2 department of land and natural resources that indicated that the  
3 bureau of conveyances does not effectively manage its staff  
4 resources or meet its customer service requirements.

5 Many aspects of the real property transactional system in  
6 Hawaii, in which the bureau of conveyances plays an important  
7 role, are now overseen or regulated by the department of  
8 commerce and consumer affairs. These include: real estate  
9 brokers and salespersons, surveyors, mortgage brokers and  
10 solicitors, condominiums, cooperative housing corporations, time  
11 shares, design professionals, financial institutions, and escrow  
12 depositories.

13 The purpose of this Act is to:

14 (1) Transfer the responsibility for the bureau of  
15 conveyances from the department of land and natural  
16 resources to the department of commerce and consumer  
17 affairs;

18 (2) Appropriate funds to the judiciary to co-locate land  
19 court upon the transfer of the bureau of conveyances  
20 to ensure convenience and continuity of service; and

21 (3) Require the judiciary and the department of commerce  
22 and consumer affairs to:



- 1 (A) Identify redundancy between the functions of the
- 2 land court and the bureau of conveyances; and
- 3 (B) Recommend ways to consolidate duplicative
- 4 responsibilities and streamline customer service,
- 5 including combining the land court receiving
- 6 section and the regular system receiving section.

7 SECTION 2. Section 437-7, Hawaii Revised Statutes, is  
8 amended by amending subsection (d) to read as follows:

9 "(d) Requirement for lines of credit shall be as follows:

- 10 (1) Applicants for issuance of a dealer's license shall
- 11 obtain an inventory or flooring line of credit from a
- 12 federally insured financial institution or from a
- 13 financing source having a net worth of at least
- 14 \$50,000,000. The line of credit shall be in the
- 15 following amount:

- 16 (A) [~~For~~] \$500,000 for new motor vehicle dealer
- 17 applicants[~~, \$500,000~~] or the amount required in
- 18 the applicant's dealer sales and service
- 19 agreement, whichever is less;

- 20 (B) [~~For~~] \$50,000 for used motor vehicle dealer
- 21 applicants[~~, \$50,000~~]; and



- 1 (C) [~~For~~] \$50,000 for new and used motorcycle and  
2 motor scooter dealer applicants[~~, \$50,000~~];
- 3 (2) Applicants for issuance of a dealer's license shall  
4 provide the board with a photocopy of the financing  
5 statement filed at the bureau of conveyances of the  
6 department of [~~land and natural resources,~~] commerce  
7 and consumer affairs, securing the line of credit;
- 8 (3) Applicants for the issuance of an auction license  
9 shall obtain a secured line of credit in the amount of  
10 \$100,000 from a federally insured financial  
11 institution; and
- 12 (4) When an inventory or flooring line of credit cannot  
13 reasonably be obtained by a dealer, the board may  
14 provide that a bond, in an amount set forth in the  
15 board's rules, be obtained as an alternative form of  
16 security for the inventory or flooring line of  
17 credit."

18 SECTION 3. Section 501-218, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) Except where otherwise provided by the supreme court  
21 [~~of the State of Hawaii~~] that shall be empowered to amend or add  
22 to the schedule from time to time, or fees for services by the



1 bureau of conveyances set by rules adopted by the department of  
2 [~~land and natural resources,~~] commerce and consumer affairs,  
3 pursuant to chapter 91, the fees payable under this chapter are  
4 as follows:

5 (1) [~~For~~] \$3 for every application filed pursuant to this  
6 chapter, including indexing and recording the  
7 application, and transmitting to registrar, when filed  
8 with assistant registrar[~~, \$3.~~];

9 (2) [~~For~~] \$1 for every plan filed[~~, \$1.~~];

10 (3) For examining title[~~7~~]:

11 (A) \$10 and two-tenths of one per cent of the  
12 assessed value of the land and improvements on  
13 the basis of the last assessment for taxation[~~7~~];  
14 or [~~the~~]

15 (B) The value of the land as determined under section  
16 501-211 [~~when~~] if the land was not separately  
17 assessed[~~7~~];

18 (4) [~~For~~] \$25 for verifying and checking map on the  
19 ground[~~7~~] for lots of one acre or less, [~~\$25; an~~]  
20 plus:





- 1           (8)    ~~[Fee]~~ \$2 for each instrument affecting a title not  
2                    reported in an applicant's filed abstract of title~~[~~  
3                    ~~\$2.]~~;
- 4           (9)    ~~[Fee]~~ \$1 for filing an amended application~~[, \$1.]~~;
- 5           (10) ~~[Fee]~~ 25 cents for each notice by publication~~[, 25~~  
6                    ~~cents.]~~;
- 7           (11) ~~[Fee]~~ \$1 for entering any general default~~[, \$1.]~~;
- 8           (12) ~~[Fee]~~ \$1 for filing any answer, [~~\$1,~~] to be paid by  
9                    the party filing the answer~~[.]~~;
- 10          (13) ~~[Fee]~~ \$1 for every subpoena~~[, \$1.]~~;
- 11          (14) ~~[Fee]~~ 10 cents for swearing each witness~~[, 10 cents.]~~;
- 12          (15) ~~[Fee]~~ \$1 for entering any discontinuance~~[, \$1.]~~;
- 13          (16) ~~[Fee]~~ \$30 for filing notice of appeal~~[, \$30.]~~;
- 14          (17) ~~[Fee]~~ \$1 for an entry of order dismissing application,  
15                    or decree of registration, and sending memorandum to  
16                    assistant registrar~~[, \$1.]~~;
- 17          (18) ~~[Fee]~~ \$1 for a copy of a decree of registration~~[~~  
18                    ~~\$1.]~~;
- 19          (19) ~~[Fee]~~ \$1 for filing any petition after original  
20                    registration, [~~\$1,~~] plus an addition of 25 cents for  
21                    each exhibit attached~~[.]~~;





1 (20) [~~For~~] \$5 for filing any order after original  
2 registration[~~, \$5.~~];

3 (21) In all cases not expressly provided for by law, the  
4 fees of all public officers for any official duty or  
5 service under this chapter shall be at a rate  
6 established by the court[~~-~~]; and

7 (22) For any application made by or in the name of the  
8 State, or any political subdivision of the State, any  
9 proceedings upon the application or any dealing with  
10 registered land by the State, or any political  
11 subdivision of the State, as owner, no fees shall be  
12 charged."

13 SECTION 4. Section 502-1, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "**§502-1 Registrar; appointment; tenure; salary.** There  
16 shall be a bureau in the department of [~~land and natural~~  
17 ~~resources~~] commerce and consumer affairs to be called the bureau  
18 of conveyances. A registrar of conveyances shall be appointed  
19 by the [~~board of land and natural resources,~~] director of  
20 commerce and consumer affairs, under chapter 76, and shall be  
21 superintendent of the bureau. The registrar shall receive  
22 [~~such~~] the salary [~~as shall be~~] provided by law."



1 SECTION 5. Section 502-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§502-3 Deputy registrar, appointment, duties. The  
4 registrar, under the direction of the [~~board of land and natural~~  
5 ~~resources,~~] director of the commerce and consumer affairs, shall  
6 appoint a deputy, for whose official acts the registrar shall be  
7 responsible, and whose appointment the registrar shall announce  
8 by public notice. The deputy shall act as registrar of  
9 conveyances[~~]~~ during the absence of the registrar[~~]~~ or in case  
10 of a vacancy in [~~that~~] the office of the registrar."

11 SECTION 6. Section 502-4, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[~~+~~]§502-4[~~+~~] Rules. The department of [~~land and natural~~  
14 ~~resources]~~ commerce and consumer affairs may adopt rules  
15 pursuant to chapter 91 necessary for the purposes of this  
16 chapter."

17 SECTION 7. Section 502-11, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§502-11 Entry record. The registrar shall make and keep  
20 in [~~such~~] the form and manner as [~~is~~] prescribed by the [~~board~~  
21 ~~of land and natural resources]~~ director of commerce and consumer  
22 affairs, a permanent record of the receipt of every deed and



1 instrument left for record, every copy left as a caution, and  
 2 every plan filed, and shall note on the record, in addition to a  
 3 description sufficient to identify the document and the date and  
 4 time of its receipt, [~~such~~] other facts as [~~are~~] prescribed by  
 5 the [~~board of land and natural resources.~~] director of commerce  
 6 and consumer affairs. Every such document shall be considered  
 7 as recorded at the time so noted."

8 SECTION 8. Section 502-12, Hawaii Revised Statutes, is  
 9 amended to read as follows:

10 "**§502-12 Indexes.** The registrar shall keep indexes for  
 11 public inspection in [~~such~~] the form and manner as is prescribed  
 12 by the [~~board of land and natural resources.~~] director of  
 13 commerce and consumer affairs."

14 SECTION 9. Section 502-25, Hawaii Revised Statutes, is  
 15 amended by amending subsection (a) to read as follows:

16 "(a) Except when otherwise provided, fees for services  
 17 rendered under this chapter shall be established by rules  
 18 adopted by the department of [~~land and natural resources,~~]  
 19 commerce and consumer affairs pursuant to chapter 91."

20 SECTION 10. Section 502-27, Hawaii Revised Statutes, is  
 21 amended by amending subsection (a) to read as follows:



1           "(a) Except when otherwise provided, fees for the use of  
2 microfilms of documents recorded in the bureau of conveyances  
3 for the purpose of making duplicates shall be established by  
4 rules adopted by the department of [~~land and natural resources~~]  
5 commerce and consumer affairs pursuant to chapter 91."

6           SECTION 11. Section 502-31, Hawaii Revised Statutes, is  
7 amended to read as follows:

8           "**§502-31 Recording, method.** (a) The registrar shall make  
9 or cause to be made an entire literal copy of all instruments,  
10 with their original signatures, required to be recorded in the  
11 registrar's office, and the registrar, the registrar's deputy,  
12 or clerk shall certify its correspondence with the original,  
13 after which the registrar, the registrar's deputy, or clerk  
14 shall certify upon the exterior, or [~~indorse~~] endorse upon the  
15 recorded instrument with the original signature, the date of its  
16 registry and the document number.

17           (b) The registrar, for purposes of the general indexes of  
18 the bureau of conveyances, shall use the names of the parties as  
19 they first appear in the recorded instrument. All names of  
20 [~~all~~] natural persons signing in their individual capacity shall  
21 be typewritten, stamped, legibly printed by hand, or by a  
22 mechanical or electrical printing method beneath all signatures.



1 The provisions of this paragraph shall not apply to any deed or  
2 conveyance instrument executed prior to July 1, 1989.

3 (c) The registrar or the registrar's deputy may refuse to  
4 accept for record any document of a size larger than eight and  
5 one-half inches by eleven inches, or [~~which~~] that contains a  
6 schedule or inventory sheet in excess of [~~such~~] that size.

7 (d) This section shall apply to all instruments presented  
8 for recording in the bureau of conveyances, unless otherwise  
9 provided by rules adopted by the department of [~~land and natural~~  
10 ~~resources,~~] commerce and consumer affairs pursuant to chapter  
11 91.

12 (e) All instruments to be recorded shall include the  
13 original signature and the top three and one-half inches of  
14 space of the first page shall be reserved for recording  
15 information for the assistant registrar on the left half of  
16 [~~such~~] that space, and for the registrar of conveyances on the  
17 right half of [~~such~~] that space. The following one inch of  
18 space shall be reserved for information showing to whom the  
19 document should be returned beginning one and one-half inch from  
20 the left margin and not exceeding three and one-half inches per  
21 line. In addition, the first page shall identify and include,  
22 if possible, all names of the grantors and all names and



1 addresses of the grantees, the type of document, and the tax map  
 2 key number. [~~Indorsements,~~] Endorsements, if any, may be made  
 3 on a conforming fly sheet. No papers or materials, written or  
 4 otherwise, shall be secured or attached to a page in any manner  
 5 that may conceal any other written text. If an instrument  
 6 consists of more than one page, each page shall be single-sided  
 7 sheets of written text numbered consecutively, beginning with  
 8 number one, and shall be stapled once in the upper left corner.  
 9 No instrument shall have a cover or backer attached.

10 (f) The registrar of conveyances shall be permitted to  
 11 remove any rivets affixed to any instrument.

12 (g) The registrar may refuse to accept all instruments,  
 13 papers, or notices presented for recordation that will not  
 14 reproduce legibly under photographic or electrostatic methods."

15 SECTION 12. Section 505-4, Hawaii Revised Statutes, is  
 16 amended to read as follows:

17 "**§505-4 Fees.** Unless otherwise provided by rules  
 18 established by the department of [~~land and natural resources,~~]  
 19 commerce and consumer affairs pursuant to chapter 91, the fees  
 20 payable under this chapter [~~are as follows:~~] shall be:

21 [~~Fee~~] \$10 for each notice of federal tax lien in the bureau  
 22 of conveyances [~~, \$10~~]; and



1            [~~For~~] \$10 for each certificate of release, partial release,  
2 or discharge of a federal tax lien in the bureau of  
3 conveyances [~~, \$10~~]."

4            SECTION 13. All rights, powers, functions, and duties of  
5 the department of land and natural resources that relate to the  
6 bureau of conveyances are transferred to the department of  
7 commerce and consumer affairs.

8            All officers and employees whose functions are transferred  
9 by this Act shall be transferred with their functions and shall  
10 continue to perform their regular duties upon their transfer,  
11 subject to the state personnel laws and this Act.

12            No officer or employee of the State having tenure shall  
13 suffer any loss of salary, seniority, prior service credit,  
14 vacation, sick leave, or other employee benefit or privilege as  
15 a consequence of this Act, and such officer or employee may be  
16 transferred or appointed to a civil service position without the  
17 necessity of examination; provided that the officer or employee  
18 possesses the minimum qualifications for the position to which  
19 transferred or appointed; and provided that subsequent changes  
20 in status may be made pursuant to applicable civil service and  
21 compensation laws.



1           An officer or employee of the State who does not have  
2 tenure and who may be transferred or appointed to a civil  
3 service position as a consequence of this Act shall become a  
4 civil service employee without the loss of salary, seniority,  
5 prior service credit, vacation, sick leave, or other employee  
6 benefits or privileges and without the necessity of examination;  
7 provided that such officer or employee possesses the minimum  
8 qualifications for the position to which transferred or  
9 appointed.

10           If an office or position held by an officer or employee  
11 having tenure is abolished, the officer or employee shall not  
12 thereby be separated from public employment, but shall remain in  
13 the employment of the State with the same pay and classification  
14 and shall be transferred to some other office or position for  
15 which the officer or employee is eligible under the personnel  
16 laws of the State as determined by the head of the department or  
17 the governor.

18           SECTION 14. All appropriations, records, equipment,  
19 machines, files, supplies, contracts, books, papers, documents,  
20 maps, and other personal property heretofore made, used,  
21 acquired, or held by the department of land and natural  
22 resources relating to the functions transferred to the





1 department of commerce and consumer affairs shall be transferred  
2 with the functions to which they relate.

3 SECTION 15. All rules, policies, procedures, guidelines,  
4 and other material adopted or developed by the department of  
5 land and natural resources or the board of land and natural  
6 resources to implement provisions of the Hawaii Revised Statutes  
7 which are reenacted or made applicable to the department of  
8 commerce and consumer affairs by this Act, shall remain in full  
9 force and effect until amended or repealed by the department of  
10 commerce and consumer affairs pursuant to chapter 91, Hawaii  
11 Revised Statutes. In the interim, every reference to the  
12 department of land and natural resources or the board of land  
13 and natural resources in those rules, policies, procedures,  
14 guidelines, and other material is amended to refer to the  
15 department of commerce and consumer affairs as appropriate.

16 SECTION 16. The judiciary shall relocate all the records,  
17 equipment, machines, files, supplies, contracts, books, papers,  
18 documents, maps, and other personal property heretofore made,  
19 used, acquired, or held by the land court or the judiciary  
20 relating to the functions of the land court to a location that  
21 is convenient to and, if possible, located with the bureau of



1 conveyances upon the transfer of rights, powers, functions, and  
2 duties referred to in section 13 of this Act.

3 SECTION 17. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2008-2009 for  
6 the judiciary to relocate all the records, equipment, machines,  
7 files, supplies, contracts, books, papers, documents, maps, and  
8 other personal property pursuant to section 16 of this Act.

9 The sum appropriated shall be expended by the judiciary for  
10 the purposes of this Act.

11 SECTION 18. (a) The judiciary and the department of  
12 commerce and consumer affairs shall cooperate to:

- 13 (1) Identify redundancy between the functions of the land  
14 court and the bureau of conveyances;
- 15 (2) Recommend ways to consolidate duplicative  
16 responsibilities and streamline customer service,  
17 including combining the land court receiving section  
18 and the regular system receiving section; and
- 19 (3) Recommend either the judiciary or the department of  
20 commerce and consumer affairs to administer the  
21 consolidated responsibilities and supervise related  
22 personnel.



1 (b) The judiciary and the department of commerce and  
 2 consumer affairs shall submit a report, including proposed  
 3 legislation, to the legislature no later than twenty days prior  
 4 to the convening of the 2009 regular session.

5 SECTION 19. All acts passed by the legislature during this  
 6 regular session of 2008, whether enacted before or after the  
 7 effective date of this Act, shall be amended to conform with  
 8 this Act unless such acts specifically provide that this Act is  
 9 being amended.

10 SECTION 20. Statutory material to be repealed is bracketed  
 11 and stricken. New statutory material is underscored.

12 SECTION 21. This Act shall take effect on July 1, 2008.

13

INTRODUCED BY: Kirk Caldwell  
Shawn Ogle  
W

JAN 15 2008



**Report Title:**

Land Court; Bureau of Conveyances; Transfer

**Description:**

Transfers responsibility for bureau of conveyances from department of land and natural resources to department of commerce and consumer affairs. Provides for transfer of records, files, etc. Appropriates funds to the judiciary to co-locate land court upon transfer of bureau of conveyances. Requires the judiciary and the department of commerce and consumer affairs to identify, and recommend ways to remedy, redundancy between the functions of the land court and the bureau of conveyances.

