
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 electronic
2 communications make it possible to conduct transactions in new
3 forms. Some of the earliest transactions governed by law are
4 real estate transactions. Deeds, mortgages, and leases were
5 memorialized by words on paper with manual signatures. However,
6 technology has advanced and electronic communications are
7 increasingly replacing paper documents. The law of real
8 property will need to transition to accommodate this change.
9 The efficiency of real estate markets makes this imminently
10 necessary.

11 The Uniform Electronic Transactions Act, as codified under
12 section 489E-5, Hawaii Revised Statutes, adjusted statute of
13 fraud provisions to enable electronic records and signatures for
14 the memorializing of a multitude of transactions, including
15 basic real estate transactions. The widespread enactment of the
16 Uniform Electronic Transactions Act and the federal Electronic
17 Signatures in Global and National Commerce Act made it possible
18 to treat sales contracts, mortgage instruments, and promissory



1 notes that are memorialized in electronic form, and with
2 electronic signatures, equal to the same paper documents that
3 have manual signatures. However, real estate documents must be
4 recorded on public record to be effective.

5 In 2007, the legislature adopted S.C.R. No. 226 (2007) that
6 established a joint senate-house investigative committee on the
7 bureau of conveyances to ensure that the bureau of conveyances
8 serves the public at its most optimal level and required the
9 committee to submit its findings and recommendations prior to
10 the convening of the 2008 regular session. One of the findings
11 in the committee's draft report indicated grave concerns that
12 the bureau of conveyances fails to exert the appropriate
13 oversight with respect to its computer system's installation,
14 maintenance, and upgrading as well as subsequent installations
15 and maintenance of computer servers and software. The committee
16 indicated concerns that the bureau's lack of computer system
17 oversight and management could ultimately affect the integrity
18 of the bureau's operations, resulting in potentially enormous
19 security ramifications.

20 In light of this finding, it appears that the electronic
21 filing of documents at the bureau of conveyances may be
22 premature, especially when security and management concerns with



1 respect to the existing computer system at the bureau have not
2 yet been addressed. Furthermore, more information is needed,
3 including the cost, feasibility, and impact of procuring and
4 implementing an electronic filing system, before enacting
5 legislation that will allow the registrar of the bureau of
6 conveyances to accept electronic documents with electronic
7 signatures for recording.

8 The purpose of this Act is to require the department of
9 land and natural resources to conduct a feasibility study on the
10 implementation and impact an electronic filing system may have
11 at the bureau of conveyances and on its operations.

12 SECTION 2. The department of land and natural resources
13 shall conduct a feasibility study that shall include the
14 following:

- 15 (1) An assessment of the current electronic record keeping
16 system at the bureau of conveyances, including any
17 problems or deficiencies with respect to the system's
18 maintenance and security;
- 19 (2) A determination of how a new electronic filing system
20 at the bureau of conveyances will be implemented at
21 the bureau of conveyances;



- 1 (3) A determination of the impact that electronic filing
2 of documents will have on the operations of the bureau
3 of conveyances and to the public that the bureau of
4 conveyances serves, including but not limited to:
- 5 (A) The impact on the employees of the bureau of
6 conveyances;
- 7 (B) The impact on the title, real estate, and legal
8 industries;
- 9 (C) The impact on the record keeping, archiving, and
10 adjudication of bureau documents; and
- 11 (D) The impact on fees for filing, retrieving, and
12 printing recorded documents of the bureau;
- 13 (4) A cost analysis of the installation and maintenance of
14 a new electronic filing system;
- 15 (5) An established timeframe for selecting, installing,
16 and implementing a new electronic filing system,
17 including employee training, changes in any applicable
18 administrative rules or procedures at the bureau, and
19 public awareness and training regarding the new
20 electronic filing system;



1 (6) An investigation of other electronic filing systems in
2 other jurisdictions, and the impact and cost that the
3 electronic filing system has on the jurisdiction; and

4 (7) A response to the concerns raised with respect to the
5 current computer system at the bureau of conveyances
6 in the joint senate-house investigative committee
7 report as well as any similar concerns in the
8 respective reports of the attorney general and state
9 ethics commission on the bureau of conveyances, if
10 released during this time.

11 (b) The department of land and natural resources shall
12 submit a written report to the legislature of its findings and
13 recommendations, including any proposed legislation, no later
14 than twenty days prior to the convening of the 2009 regular
15 session.

16 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Electronic Recording; Bureau of Conveyances

Description:

Requires the department of land and natural resources to perform a feasibility study on the impact electronic recording may have on the bureau of conveyances and the public, and report its findings to the legislature prior to 2009 regular session. (SD1)

