
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 chapter 489E, Hawaii Revised Statutes, adjusted statute of fraud
13 provisions to enable electronic records and signatures for the
14 memorializing of a multitude of transactions, including basic
15 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 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 was concerned 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 The purpose of this Act is to require the department of
21 land and natural resources to modernize the current property
22 transfer filing system at the bureau of conveyances to include



1 external filing access. The system shall include both the
2 regular system and the land court system and shall be conducted
3 in a two-phase process. The first phase, planning and designing
4 the new electronic filing system, will entail defining all the
5 components of the system, developing an implementation approach,
6 developing timetables, establishing expected outcomes and
7 performance objectives, and establishing the work practice and
8 administrative rule changes necessary for the implementation of
9 the new system. Upon completion of the new system design, the
10 department of land and natural resources shall present it to the
11 legislature with recommendations for action. Implementation of
12 the system is phase two.

13 SECTION 2. The department of land and natural resources
14 shall specify the design of a new integrated electronic filing
15 system at the bureau of conveyances, which shall include, but
16 not be limited to:

17 (1) A definition of all technical components of the
18 system, including:

19 (A) All file and database layouts;

20 (B) All data input screens;

21 (C) All data inquiry and informational screens;

22 (D) All internal processes;



- 1 (E) All output reports and screens;
- 2 (F) All network requirements;
- 3 (G) All scheduled processes;
- 4 (H) All system performance specifications;
- 5 (I) All security requirements; and
- 6 (J) Any special requirements such as standard inputs
- 7 and required preprocessing;
- 8 (2) A specification of all rule changes required to
- 9 support the new system. Internal rule changes shall
- 10 include, but not be limited to, all employee and human
- 11 resources related work rules, updated position
- 12 descriptions for all affected employees,
- 13 specifications of all record indexing required, any
- 14 specific scanning requirements, and concurrence with
- 15 all relevant collective bargaining units. External
- 16 rule changes shall include, but not be limited to, any
- 17 third party agreements and all fees to be paid and to
- 18 be charged;
- 19 (3) An economic summary of the system, which shall include
- 20 all costs to design and implement the system, all
- 21 revenues expected to be generated by the system, and a
- 22 return on investment calculation; and



1 (4) An established timeframe for installing and
2 implementing a new electronic filing system, including
3 plans for employee training, changes in any applicable
4 administrative rules or procedures at the bureau, and
5 public awareness and training regarding the new
6 electronic filing system.

7 SECTION 3. The department of land and natural resources
8 shall submit a written report on the design of the new system to
9 the legislature no later than twenty days prior to the convening
10 of the 2009 regular session. The report shall include any
11 proposed legislation and all rule changes, costs expended to
12 date, and estimated cost of implementation.

13 SECTION 4. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so much
15 thereof as may be necessary for fiscal year 2008-2009 for the
16 purpose of supporting the work to design a new electronic
17 property transfer filing system for the department of land and
18 natural resources, bureau of conveyances.

19 The sum appropriated shall be expended by the department of
20 land and natural resources for the purposes of this Act.

21 SECTION 5. 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 plan and design a new electronic filing system for the bureau of conveyances and to seek approval from the legislature prior to system implementation. Makes an appropriation. (HB2302 SD2)

