

S.B. NO. 1475

JAN 22 2007

A BILL FOR AN ACT

RELATING TO TIME SHARES IN LAND COURT.

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

1 SECTION 1. Chapter 501, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART II. FEE TIME SHARE INTERESTS**

5 **§501-A Deregistration of fee time share interests. (a)**

6 Upon presentation to the assistant registrar for filing or
7 recording of any instrument, document, or paper conveying or
8 encumbering a fee time share interest or any interest therein,
9 the assistant registrar shall not register the same, but shall:

10 (1) Record in the bureau of conveyances, pursuant to
11 chapter 502, the current certificate of title for the
12 registered land in which the fee time share interest
13 includes an undivided interest; provided that:

14 (A) Prior thereto, the assistant registrar shall note
15 on the certificate of title all documents and
16 instruments that have been accepted for

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1 registration and that have not yet been noted on
2 the certificate of title; and

3 (B) If separate certificates of title have been
4 issued for individual fee time share interests in
5 the time share plan, the assistant registrar
6 shall record in the bureau of conveyances,
7 pursuant to chapter 502, the certificate of title
8 for each fee time share interest in the time
9 share plan;

10 (2) Record in the bureau of conveyances, pursuant to
11 chapter 502, the instrument, document, or paper
12 presented to the assistant registrar for filing or
13 recording. Such instrument, document, or paper shall
14 be recorded immediately after the certificate or
15 certificates of title; and

16 (3) Cancel the certificate of title.

17 (b) The registrar or assistant registrar shall note the
18 recordation and cancellation of the certificate of title in the
19 registration book and in the records of the application for
20 registration of the land that is the subject of the certificate
21 of title. The notation shall state the bureau of conveyances
22 document number for the certificate of title so recorded, the

1 certificate of title number, and the land court application
2 number, map number, and lot number for the land that is the
3 subject of the certificate of title so recorded.

4 (c) It shall not be necessary for the registered owner,
5 the registrar, the assistant registrar, or any other person to
6 seek or obtain an order of court prior to or in connection with
7 the performance of any of the foregoing actions.

8 **§501-B Effect of deregistration.** (a) Upon the
9 recordation in the bureau of conveyances of a certificate of
10 title pursuant to section 501-A:

11 (1) The deregistered land shall no longer be registered
12 land for purposes of this chapter;

13 (2) No instruments, documents, or papers relating solely
14 to deregistered land shall be filed or recorded with
15 the assistant registrar pursuant to this chapter, but
16 shall instead be recorded in the bureau of conveyances
17 pursuant to chapter 502; and

18 (3) Except as otherwise expressly provided in this
19 chapter, chapter 502 shall apply to the deregistered
20 land.

21 (b) Recordation of a certificate of title pursuant to
22 section 501-A shall not disturb the effect of any proceedings in

1 the land court where the question of title has been determined.
2 All proceedings had in connection with the registration of title
3 that relate to the settlement or determination of title before
4 that recording, and all provisions of this chapter that relate
5 to the status of the title, shall have continuing force and
6 effect with respect to the period of time that title remained
7 under the land court system. Those provisions giving rise to a
8 right of action for compensation from the State, including but
9 not limited to any limits on and conditions to the recovery of
10 such compensation and the State's rights of subrogation with
11 respect thereto, shall also continue in force and effect with
12 respect to the period of time that title remained under the land
13 court system.

14 **§501-C Effect of deregistration in specific cases.**

15 Notwithstanding section 501-B(a)(3), the following documents,
16 instruments, and papers need not be registered pursuant to this
17 chapter to be effective and shall be recorded in the bureau of
18 conveyances pursuant to chapter 502:

- 19 (1) Any document, instrument, or paper assigning,
20 extending, continuing, dissolving, discharging,
21 releasing in whole or in part, reducing, canceling,
22 extinguishing, or otherwise modifying or amending any

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1 of the following documents, instruments, or papers
2 that have been registered pursuant to this chapter and
3 that pertain to deregistered land:

4 (A) A mortgage;

5 (B) An agreement of sale for the sale of a fee time
6 share interest. After the recordation of the
7 certificate of title, any such agreement of sale
8 shall be subject to section 502-85 and shall not
9 be subject to section 501-101.5;

10 (C) A correction deed, correction mortgage, or other
11 document, instrument, or paper correcting a
12 document, instrument, or paper registered
13 pursuant to this chapter;

14 (D) A lien or claim of lien on a fee time share
15 interest held or claimed by a time share owners
16 association, an association of apartment owners,
17 or other homeowners' association;

18 (E) A lease that demises a fee time share interest;

19 (F) An order of court, attachment, writ or other
20 process against a fee time share interest;

21 (G) A mechanic's or materialman's lien or other lien
22 upon a fee time share interest;

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1 (H) A lis pendens or notice of pendency of action,
2 notice, affidavit, demand, certificate,
3 execution, copy of execution, officer's return,
4 or other instrument relating to a fee time share
5 interest and otherwise required or permitted to
6 be recorded or registered in connection with the
7 enforcement or foreclosure of any lien, whether
8 by way of power of sale pursuant to a power of
9 sale under section 667-5, or otherwise; or

10 (I) A power of attorney given by the owner of a fee
11 time share interest or the vendor or vendee under
12 an agreement of sale for the sale of a fee time
13 share interest, a mortgagee or other lienor
14 having a mortgage or lien upon a fee time share
15 interest, or another party holding a claim or
16 encumbrance against or an interest in a fee time
17 share interest;

18 (2) A lis pendens or notice of pendency of action, notice,
19 affidavit, demand, certificate, execution, copy of
20 execution, officer's return, or other instrument
21 relating to a fee time share interest and otherwise
22 required or permitted to be recorded or registered in

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1 connection with the enforcement or foreclosure of any
2 lien, whether by way of power of sale pursuant to a
3 power of sale under section 667-5, or otherwise; and
4 (3) Any declaration annexing property to, any declaration
5 deannexing property from, any amendment or supplement
6 to, correction of, or release or termination of any of
7 the following documents, instruments, or papers that
8 have been registered pursuant to this chapter and that
9 pertain to deregistered land:
10 (A) A declaration of covenants, conditions,
11 restrictions, or similar instrument, by whatever
12 name denominated, establishing or governing a
13 time share plan, or the bylaws of a time share
14 owners association, notice of time share plan, or
15 other time share instrument;
16 (B) A declaration of condominium property regime or
17 similar declaration by whatever name denominated,
18 the bylaws of the association of apartment
19 owners, the condominium map, any declaration of
20 merger and any instrument effecting a merger;
21 provided that if only some of the condominium
22 apartments are included in the time share plan,

1 then it shall be necessary to register, and to
2 note on the certificate of title for any
3 apartment not included in the time share plan:
4 (i) Any declaration annexing property to the
5 condominium property regime;
6 (ii) Any declaration deannexing property from the
7 condominium property regime;
8 (iii) Any instrument effecting a merger of two or
9 more condominium projects or two or more
10 phases of a condominium project; and
11 (iv) Any document, instrument or paper amending,
12 supplementing, correcting, releasing, or
13 terminating any of the documents listed in
14 items (i) through (iii) above, the
15 declaration of condominium property regime,
16 the bylaws of the association of apartment
17 owners, the condominium map, or any
18 declaration of merger; and
19 (C) A declaration of covenants, conditions and
20 restrictions or similar instrument, by whatever
21 name denominated, the bylaws of any homeowners
22 association, any declaration of annexation or

1 deannexation, any amendments and supplements
2 thereto, and any cancellation or extinguishment
3 thereof, any declaration of merger and any
4 instrument effecting a merger; provided that if
5 only some of the parcels of land covered by the
6 declaration constituted deregistered land, and if
7 one or more of the remaining parcels constitute
8 registered land, then it shall be necessary to
9 register, and to note on the certificate of title
10 for any registered land:

- 11 (i) Any declaration annexing property to such
12 declaration;
- 13 (ii) Any declaration deannexing property from the
14 operation of such declaration; and
- 15 (iii) Any document, instrument or paper amending,
16 supplementing, correcting, releasing, or
17 terminating any of the documents listed in
18 items (i) or (ii) above, the declaration of
19 covenants, conditions and restrictions, or
20 the bylaws of the homeowners association.

21 **§501-D Chain of title of deregistered land.** (a) A
22 certificate of title recorded pursuant to section 501-A shall

1 constitute a new chain of record title in the registered owner
2 of any estate or interest as shown on the certificate of title
3 so recorded, subject only to the following:

4 (1) The estates, mortgages, liens, charges, instruments,
5 documents, and papers noted on the certificate of
6 title so recorded;

7 (2) Liens, claims, or rights arising or existing under the
8 laws or Constitution of the United States, which the
9 statutes of this State cannot require to appear of
10 record in the registry; provided that notices of liens
11 for internal revenue taxes payable to the United
12 States, and certificates affecting such liens, shall
13 be deemed to fall within this paragraph only if the
14 same are recorded in the bureau of conveyances as
15 provided by chapter 505;

16 (3) Unpaid real property taxes assessed against the land
17 and improvements covered by the certificate of title
18 so recorded, with interest, penalties, and other
19 additions to the tax, which, unless a notice is filed
20 and registered as provided by county real property tax
21 ordinance, shall be for the period of three years from
22 and after the date on which the lien attached, and if

1 proceedings for the enforcement or foreclosure of the
2 tax lien are brought within the period, until the
3 termination of the proceedings or the completion of
4 the tax sale;

5 (4) State tax liens, if the same are recorded in the
6 bureau of conveyances as provided by section 231-33;

7 (5) Any public highway, or any private way laid out under
8 the provisions of law, when the certificate of title
9 does not state that the boundary of such way has been
10 determined;

11 (6) Any lease, coupled with occupancy, for a term not
12 exceeding one year; provided that the priority of the
13 unrecorded lease shall attach only at the date of the
14 commencement of the unrecorded lease and expire one
15 year from the date or sooner if so expressed;

16 (7) Any liability to assessments for betterments, or
17 statutory liability which may attach to land as a lien
18 prior to or independent of, the recording or
19 registering of any paper of the possibility of a lien
20 for labor or material furnished in the improvement of
21 the land; provided that the priority of any such
22 liability and the lien therefor (other than for labor

1 and material furnished in the improvement of the land
2 which shall be governed by section 507-43) shall cease
3 and terminate three years after the liability first
4 accrues unless notice thereof, signed by the officer
5 charged with collection of such assessments or
6 liability, setting forth the amount claimed, the date
7 of accrual, and the land affected, is recorded in the
8 bureau of conveyances pursuant to chapter 502 within
9 such three year period; and provided further that if
10 there are easements or other rights, appurtenant to a
11 parcel of deregistered land which for any reason have
12 failed to be deregistered, such easements or rights
13 shall remain so appurtenant notwithstanding such
14 failure, and shall be held to pass with the
15 deregistered land until cut off or extinguished in any
16 lawful manner;

17 (8) The possibility of reversal or vacation of the decree
18 of registration upon appeal;

19 (9) Any encumbrance not herein required to be registered
20 as provided in sections 501-241 to 501-248 and
21 relating to a leasehold time share interest; and

1 (10) Child support liens that are created pursuant to order
2 or judgment filed through judicial or administrative
3 proceeding in this State or in any other state, the
4 recording of which shall be as provided by chapter
5 576D.

6 (b) For purposes of this section, an encumbrance shall be
7 deemed sufficiently noted on a certificate of title if the
8 notation:

9 (1) References a document by name or number which contains
10 an encumbrance; and

11 (2) Indicates that the referenced document contains an
12 encumbrance to which the registered land is subject.

13 (c) All instruments, documents, and papers noted on a
14 certificate of title recorded pursuant to section 501-A shall
15 have the same force and effect as if they had been recorded in
16 the bureau of conveyances pursuant to chapter 502 as of the
17 date, hour, and minute of reception noted on the certificate of
18 title pursuant to section 501-107; provided that:

19 (1) No such instrument, document, or paper shall have any
20 greater or other effect after such certificate of
21 title is recorded pursuant to section 501-A, as
22 constructive notice or otherwise, than it had or

1 acquired at the time it was registered pursuant to
2 this chapter or made; and

3 (2) Nothing in this part shall be construed as giving any
4 greater or other effect, as constructive notice or
5 otherwise, to any instrument, document or paper
6 recorded in the bureau of conveyances pursuant to
7 chapter 502 prior to the recordation of the
8 certificate of title pursuant to section 501-A as to
9 any land, than was provided by the laws of this State
10 (including this chapter and other laws regarding
11 registered land) in effect at the time such
12 instrument, document, or paper was recorded.

13 (d) If a certificate of title recorded pursuant to section
14 501-A relates to more than one fee time share interest, then
15 subsection (a) shall apply to each fee time share interest
16 separately and only those items described in subsection (a) that
17 encumbered a particular fee time share interest prior to
18 recordation of the certificate of title will continue to
19 encumber that fee time share interest after such recordation.

20 **§501-E Status of fee time share interest as real property.**

21 Nothing in this part shall affect the status of a fee time share
22 interest as real property.

1 **§501-F Dual recording involving deregistered land.**

2 Nothing in this part shall prevent or prohibit the registration
3 of an instrument that conveys, assigns, or affects both
4 registered land and deregistered land.

5 **§501-G Reference to prior recorded instrument.** Any

6 instrument conveying or otherwise dealing with deregistered land
7 and which requires a reference to a prior recorded instrument
8 may satisfy the requirements of section 502-33 by reference to
9 the land court document number (in the case of a document
10 recorded pursuant to chapter 501) or to the book and page or
11 bureau of conveyances document number (in the case of a document
12 recorded pursuant to chapter 502) of the instrument to which
13 reference is made.

14 **§501-H Legal incidents of deregistered land.** Nothing in
15 this part shall, in any way, be construed to relieve
16 deregistered land, or the owners thereof, of:

17 (1) Any rights incident to the relation of husband and
18 wife;

19 (2) Liability to attachment or mesne process or levy on
20 execution;

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- 1 (3) Liability to any lien of any description established
- 2 by law on the deregistered land, or in the interest of
- 3 the owner in the deregistered land;
- 4 (4) The right to change the laws of descent;
- 5 (5) The rights of partition between coparceners and other
- 6 cotenants;
- 7 (6) The right to take the same by eminent domain;
- 8 (7) Liability to be recovered by a trustee in bankruptcy
- 9 under the provisions of law relating to preferences;
- 10 or
- 11 (8) Any other rights or liabilities created by law and
- 12 applicable to the owner of a condominium apartment
- 13 that is part of a condominium property regime
- 14 established on registered land and which is not
- 15 utilized in a time share plan, except as otherwise
- 16 expressly provided in this part.

17 **§501-I Jurisdiction for matters pertaining to deregistered**
18 **land.** The land court shall have jurisdiction over all matters
19 relating to instruments required by this part to be registered
20 pursuant to this chapter. Where any party is in doubt as to
21 whether an instrument must be registered, the question shall be
22 referred to the land court for decision; and the court, after

1 notice to all parties and a hearing, shall enter an order
2 determining the question. Notice to the owner of a fee time
3 share interest shall be given by mailing notice to the
4 association of time share owners required to be established
5 pursuant to section 514E-29, and such association shall
6 represent the owners in any such matters and proceedings,
7 without prejudice to the right of any individual owner to appear
8 and be heard as a separate party. Except as expressly otherwise
9 provided in this section, nothing in this part shall deprive the
10 land court of exclusive jurisdiction pursuant to section 501-101
11 over registered land, or any interest therein, other than
12 registered land that becomes deregistered land. The circuit
13 court shall have jurisdiction, pursuant to section 603-
14 21.5(a)(3), over:

- 15 (1) All matters relating to instruments required by this
16 part to be recorded pursuant to chapter 502;
- 17 (2) All other matters pertaining to deregistered land
18 (except those in which jurisdiction is vested in the
19 land court pursuant to this section); and
- 20 (3) All matters as to which jurisdiction would otherwise
21 lie in the land court in part and in the circuit court
22 in part."

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1 SECTION 2. Chapter 657, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§657- Deregistered land. With respect to land that was
5 registered land under chapter 501, but that has been
6 deregistered pursuant to section 501-A, in no event shall the
7 period of limitations provided in part II of this chapter begin
8 prior to the recordation of the certificate of title for such
9 land pursuant to section 501-A."

10 SECTION 3. Chapter 501, Hawaii Revised Statutes, is
11 amended by designating sections 501-1 to 501-248 as part I,
12 entitled "General Provisions".

13 SECTION 4. Section 501-20, Hawaii Revised Statutes, is
14 amended by adding two new definitions to be appropriately
15 inserted and to read as follows:

16 "Deregistered land" means land that is the subject of a
17 certificate of title recorded pursuant to section 501-A.

18 "Fee time share interest" means a time share interest,
19 other than a leasehold time share interest, that consists of or
20 includes a present undivided interest in registered land,
21 including but not limited to an undivided interest in one or

1 more fee simple condominium apartments established in whole or
2 in part on registered land."

3 SECTION 5. Section 501-71, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§501-71 Decree of registration; conditional when;**
6 **quieting title, exceptions; reopened when.** If the court after
7 hearing finds that the applicant, at the time of filing an
8 application, or subsequently, had title, as stated in the
9 application, that the title is proper for registration, and that
10 since filing the application, the title of the applicant has not
11 been encumbered in any manner, then a decree of confirmation and
12 registration as prayed for shall be entered.

13 If the court finds that the applicant, at the time of
14 filing an application, or subsequently, had title, as stated in
15 the application, that the title is proper for registration, and
16 that subsequent to the filing of the application, the title has
17 been encumbered, then the title shall be registered subject to
18 the encumbrances so found.

19 If the court finds that the applicant, at the time of
20 filing an application, or subsequently, had title, as stated in
21 the application, that the title is proper for registration, and
22 that subsequent to filing the application, the applicant has

1 conveyed away all or any portion or portions of the premises or
2 interest therein sought to be registered, then a decree of
3 confirmation and registration shall be entered, covering the
4 entire premises, confirming title in the applicant and the
5 person or persons deriving their title through the applicant, to
6 the premises or interest in accordance with the applicant's or
7 their respective true ownership of the whole or any portion or
8 portions thereof or interest therein at the time of filing the
9 decree, and subject to all encumbrances affecting all or any
10 portion thereof.

11 Every decree of registration of absolute title shall bind
12 the land, and quiet the title thereto, subject only to the
13 exceptions stated in section 501-82. It shall be conclusive
14 upon and against all persons, including the State, whether
15 mentioned by name in the application, notice, or citation, or
16 included in the general description "to all whom it may
17 concern." The decree shall not be opened by reason of the
18 absence, infancy, or other disability of any person affected
19 thereby, nor by any proceeding for reversing judgments or
20 decrees [~~subject, to the right of~~], except that any person
21 deprived of land or of any estate or interest therein by a
22 decree of registration obtained by fraud to file a petition for

1 review within one year after the entry of the decree [~~+~~ provided
2 ~~ne~~] unless an innocent purchaser for value has acquired an
3 interest. If there is any such purchaser, the decree of
4 registration shall not be opened but shall remain in full force
5 and effect forever, subject only to the right of appeal
6 hereinbefore provided [~~-~~] and to sections 501-A to 501-I.
7 Deregistration pursuant to sections 501-A to 501-I shall not
8 alter or revoke the conclusive nature or effect of a decree of
9 registration, which shall continue to quiet the title to the
10 deregistered land as to all claims based arising prior to the
11 recording of the certificate of title pursuant to section 501-A,
12 except such claims as would not otherwise be barred under this
13 chapter if such lands were not deregistered. Any person
14 aggrieved by the decree in any case may pursue a remedy by
15 action of tort against the applicant or any other person for
16 fraud, in procuring the decree."

17 SECTION 6. Section 501-86, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§501-86 Registration runs with land.** The obtaining of a
20 decree of registration, and the entry of a certificate of title,
21 shall be regarded as an agreement running with the land, and
22 binding upon the applicant and all the applicant's successors in

1 title, that the land shall be and forever remain registered
2 land, and subject to this chapter [~~and of all acts in amendment~~
3 ~~hereof.~~], except as provided in part II."

4 SECTION 7. Section 501-108, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) An owner desiring to convey in fee registered land or
7 any portion thereof shall execute a deed of conveyance, which
8 the grantor or the grantee may present to the assistant
9 registrar in the bureau of conveyances; provided that no deed,
10 mortgage, lease, or other voluntary instrument shall be accepted
11 by the assistant registrar for registration unless a reference
12 to the number of the certificate of title of the land affected
13 by such instrument is incorporated in the body of the instrument
14 tendered for registration. If the certificate reference in the
15 instrument is not current, an endorsement of the current
16 certificate of title shall be required.

17 The assistant registrar shall note upon all instruments
18 filed or recorded concurrently with the recorded instrument the
19 document number and the certificate of title number in the
20 spaces provided therefor wherever required[+] and, in the case
21 of deregistered land, the bureau of conveyances document number
22 in the space provided therefor wherever required.

1 ~~[The]~~ Except as otherwise provided in section 501-A:

2 (1) The assistant registrar shall thereupon, in accordance
3 with the rules and instructions of the court, make out
4 in the registration book a new certificate of title to
5 the grantee~~[-]~~;

6 (2) The assistant registrar shall note upon the original
7 certificate the date of transfer, and a reference by
8 number to the last prior certificate~~[-]~~;

9 (3) The original certificate shall be stamped
10 " canceled" ~~[-]~~; and

11 (4) The deed of conveyance shall be filed or recorded and
12 endorsed with the number and place of registration of
13 the certificate of title of the land conveyed."

14 SECTION 8. Section 501-116, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§501-116 Mortgage registration necessary.** The owner of
17 any interest in registered land may mortgage such interest by
18 executing a mortgage thereof. Such a mortgage may be assigned,
19 extended, discharged, released in whole or in part, or otherwise
20 dealt with by the mortgagee by any form of instrument sufficient
21 in law for the purpose. ~~[The]~~ Except as otherwise provided in
22 part II, the mortgage, and all instruments assigning, extending,

1 discharging, and otherwise dealing with the mortgage, shall be
2 registered and shall take effect upon the title of the mortgaged
3 property only from the time of registration."

4 SECTION 9. Section 501-171, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) When the owner of registered land, or of any estate
7 or interest therein, dies, having devised the same by will, the
8 person or persons entitled thereto shall file or record with the
9 assistant registrar of the land court a correct statement of the
10 full names of the devisees, the residence or post office address
11 of each and their marital status and a reference to the number
12 of the certificate of title of the land affected, a certified
13 copy of the letters appointing the personal representative
14 showing the powers of the personal representative, or a
15 certified copy of an acknowledgment of authority, and either a
16 certified copy of an order of the circuit court determining the
17 persons entitled to distribution of the registered land and
18 directing or approving distribution or a deed from the personal
19 representative to the devisee or devisees, and thereupon the
20 assistant registrar shall cancel the certificate issued to the
21 testator, and, except as otherwise provided in part II, enter a
22 new certificate to the devisee or devisees. When the owner of

1 registered land or of any estate or interest therein dies, not
2 having devised the same, the persons entitled thereto by law
3 shall file or record with the assistant registrar a correct
4 statement of the full names of the heirs, the residence or post
5 office address of each, and their marital status, a certified
6 copy of the letters appointing the personal representative
7 showing the powers of the personal representative, or a
8 certified copy of an acknowledgment of authority, and either a
9 certified copy of an order of the circuit court in probate
10 proceedings determining the persons entitled to distribution of
11 the registered land and directing or approving distribution or a
12 deed from the personal representative to the heir or heirs, and
13 thereupon the assistant registrar shall cancel the certificate
14 issued to the intestate, and, except as otherwise provided in
15 part II, enter a new certificate to the heir or heirs entitled
16 thereto."

17 SECTION 10. Section 634-51, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§634-51 Recording of notice of pendency of action.** In
20 any action concerning real property or affecting the title or
21 the right of possession of real property, the plaintiff, at the
22 time of filing the complaint, and any other party at the time of

1 filing a pleading in which affirmative relief is claimed, or at
2 any time afterwards, may record in the bureau of conveyances a
3 notice of the pendency of the action, containing the names or
4 designations of the parties, as set out in the summons or
5 pleading, the object of the action or claim for affirmative
6 relief, and a description of the property affected thereby.
7 From and after the time of recording the notice, a person who
8 becomes a purchaser or incumbrancer of the property affected
9 shall be deemed to have constructive notice of the pendency of
10 the action and be bound by any judgment entered therein if the
11 person claims through a party to the action; provided that in
12 the case of registered land, section 501-151 [~~and~~], sections
13 501-241 to 501-248, and sections 501-A to 501-I shall govern.

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

17 SECTION 11. Section 636-3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§636-3 Judgment, orders, decrees; lien when.** Any money
20 judgment, order, or decree of a state court or the United States
21 District Court for the District of Hawaii shall be a lien upon
22 real property when a copy thereof, certified as correct by a

1 clerk of the court where it is entered, is recorded in the
2 bureau of conveyances. No such lien shall continue beyond the
3 length of time the underlying judgment, order, or decree is in
4 force. Except as otherwise provided, every judgment shall
5 contain or have endorsed on it the social security number, the
6 Hawaii tax identification number, or the federal employer
7 identification number for persons, corporations, partnerships,
8 or other entities against whom the judgment, order, or decree is
9 rendered. If the debtor has no social security number, Hawaii
10 tax identification number, or federal employer identification
11 number, or if that information is not in the possession of the
12 party seeking registration of the judgment, order, or decree,
13 the judgment, order, or decree shall be accompanied by a
14 certificate that provides that the information does not exist or
15 is not in the possession of the party seeking recordation of the
16 judgment. Failure to disclose or disclosure of an incorrect
17 social security number, Hawaii tax identification number, or
18 federal employer identification number shall not in any way
19 adversely affect or impair the lien created upon recordation of
20 the judgment, order, or decree. When any judgment, order, or
21 decree is fully paid, the creditor or the creditor's attorney of
22 record in the action [~~shall~~], at the expense of the debtor,

1 shall execute, acknowledge, and deliver to the debtor a
2 satisfaction thereof, which may be recorded in the bureau.
3 Every satisfaction or assignment of judgment, order, or decree
4 shall contain a reference to the book and page or document
5 number of the registration of the original judgment. The
6 recording fees for a judgment, order, or decree and for each
7 assignment or satisfaction of judgment, order, or decree shall
8 be as provided by section 502-25.

9 In the case of registered land, section 501-102 [~~and~~],
10 sections 501-241 to 501-248, and sections 501-A to 501-I shall
11 govern."

12 SECTION 12. Nothing contained in this Act shall terminate,
13 extinguish, diminish, or impair any existing right in or
14 pertaining to any deregistered land, or any existing right to
15 compensation created by chapter 501, Hawaii Revised Statutes,
16 but any such right may be asserted and enforced in the same
17 manner, to the same extent, and subject to the same limitations
18 and conditions, provided in the land court laws amended by this
19 Act.

20 SECTION 13. In codifying the new sections added to chapter
21 501, Hawaii Revised Statutes, by section 1 of this Act and
22 referred to in amendments made by this Act, the revisor of

S.B. NO. 1475

1 statutes shall substitute appropriate section numbers for the
2 letters used in designating the new sections in this Act.

3 SECTION 14. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 15. This Act shall take effect on July 1, 2007.

6
7 INTRODUCED BY: _____

8 BY REQUEST
9

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO TIME SHARES IN LAND COURT.

PURPOSE: To deregister fee simple time share interest from the Land Court System.

MEANS: Add a new part (II) to chapter 501, Hawaii Revised Statutes (HRS); add a new section to chapter 657, HRS; designate a new part (I) to incorporate sections 501-1 to 501-248, HRS; and amend sections 501-20, 501-71, 501-86, 501-108(a), 501-116, 501-171(a), 634-51, and 636-3, HRS.

JUSTIFICATION: The Land Court Act was adopted in 1903 to provide landowners a means to establish clear title to land through a court proceeding. Under the Land Court System, the owner of land is issued a certificate of title to the land that cannot be encumbered unless the encumbrance is filed in the Land Court and noted on the certificate of title. This System has worked well with land parcels having one or just a few owners on each parcel.

With fee simple time share however, the number of owners of a parcel of land increases from a few hundred owners under a condominium property regime (CPR) to literally thousands of owners, each having a small undivided percentage interest in the CPR land. For these thousands of owners of the parcel of land, the issuance of an initial certificate of title for each one, and subsequent changes in ownership, is cumbersome, costly, and time consuming.

This bill would deregister lands that are within a CPR fee simple time share project out of the Land Court System, thereby eliminating the need to issue a certificate

of title for each fee simple time share unit for each owner, and whenever a change in ownership occurs. As a result of this legislation, fee simple time shares would only be recorded in the Regular System of the Bureau of Conveyances (Bureau).

Impact on the public: Would eliminate the option of having fee simple time share recorded and its title guaranteed by the State under the Land Court System.

Impact on the department and other agencies: Would reduce recording large numbers of transactions for time shares in Land Court. As a result, the staff of the Bureau can address other recordation actions in a more timely fashion.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: LNR 111, JUD 601.

OTHER AFFECTED
AGENCIES: Judiciary (Land Court).

EFFECTIVE DATE: July 1, 2007.