

JAN 22 2008

S.B. NO. 2805

A BILL FOR AN ACT

RELATING TO THE BUREAU OF CONVEYANCES.

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

1 SECTION 1. In light of the published news reports,
2 studies, and senate hearings regarding the problems at the
3 bureau of conveyances, the ongoing investigations by the
4 department of the attorney general and the state ethics
5 commission, and the lack of any effective solutions being
6 created or implemented at the bureau of conveyances (bureau),
7 the legislature adopted Senate Concurrent Resolution No. 226
8 during the 2007 regular session. It was clear to the
9 legislature that further action was required to address the
10 concerns regarding the personnel, operational, and fiscal
11 management of the bureau of conveyances as it serves an
12 important public service as the repository of information
13 relating to the title to land upon which homes and businesses
14 are situated within the State. If the information in this
15 repository is compromised, it could result in enormous potential
16 legal and economic problems for the public.



1 Senate Concurrent Resolution No. 226 established a joint
2 senate-house investigative committee to investigate the
3 personnel, operational, and fiscal management of the bureau to
4 ensure that the bureau serves the public at its most optimal
5 level. The committee was required to submit its findings and
6 recommendations to the legislature prior to the convening of the
7 2008 regular session.

8 The purpose of this Act is to effectuate a number of the
9 recommendations of the investigative committee to:

- 10 (1) Establish a special master and an advisory council;
11 (2) Establish a comprehensive plan for the bureau to
12 address specific problem areas, solve its current
13 problems, and create strategies to remain and maintain
14 or exceed an efficient level of operation in the
15 future;
16 (3) Increase the ceiling of the bureau of conveyances
17 special fund; and
18 (4) Appropriate funds from the bureau of conveyances
19 special fund to hire a special master.

20 PART I

21 SECTION 2. (a) There is established a special master to
22 be temporarily appointed to serve to develop and implement a



1 comprehensive plan to assist the bureau in becoming a more
2 efficient, effective, and accountable operation, and develop
3 strategic initiatives for the bureau.

4 (b) The special master shall be selected by a selection
5 committee composed of the following members:

6 (1) The president of the senate;

7 (2) The senate minority leader;

8 (3) The speaker of the house of representatives; and

9 (4) The minority leader of the house of representatives,

10 or any of their designees; provided that there is no conflict of
11 interest or appearance of conflict of interest in serving on the
12 selection committee. In the event of a tied vote, the final
13 selection between the two leading candidates shall be made by a
14 majority vote of the joint senate-house investigative committee.

15 The special master shall be willing to serve, for reasonable
16 compensation for the special master's service, and have no
17 conflict of interest. The compensation for the special master
18 shall be made from the bureau of conveyances special fund under
19 section 502-8, Hawaii Revised Statutes.

20 (c) The special master shall be assisted by an advisory
21 council, consisting of various stakeholders of the bureau, to
22 aid in the development and implementation of a comprehensive



1 plan for operational improvements and strategic initiatives for
2 the bureau. The advisory council shall consist of various
3 stakeholders of the bureau, including but not limited to members
4 representing:

- 5 (1) The chairperson of the board of land and natural
6 resources;
- 7 (2) The bureau of conveyances at the department of land
8 and natural resources;
- 9 (3) The judiciary;
- 10 (4) The Hawaii Government Employees Association, AFSCME
11 Local 152, AFL-CIO;
- 12 (5) The Hawaii Land Title Association;
- 13 (6) The Hawaii Association of Realtors;
- 14 (7) The financial services industry; and
- 15 (8) The legal community.

16 The advisory council shall be reimbursed for expenses, including
17 travel expenses, necessary for the performance of their duties.

18 (d) The special master and the advisory council shall
19 consult and work with various entities to aid in the development
20 and implementation of the comprehensive plan, such as the Hawaii
21 government employees association and the department of human
22 resources development. The special master and the advisory



1 council shall work with and accept full participation and
2 consultation from bureau employees, management, and the
3 department of land and natural resources.

4 (e) The special master and the advisory council shall
5 develop a comprehensive plan for the improvement of operations
6 at the bureau of conveyances, including but not limited to the
7 following areas:

8 (1) Concentration on improving the various problematic
9 operational issues at the bureau, including but not
10 limited to:

11 (A) Updating the bureau's administrative rules,
12 including establishing standard fee schedules for
13 various bureau services, and a standard fee
14 waiver policy that includes the amount waived,
15 the recipient of the waiver, and the reason for
16 the waiver to ensure greater accountability of
17 all moneys due to the bureau;

18 (B) Drafting or updating written contracts and
19 operating agreements between the bureau and
20 outside parties for goods and services, including
21 but not limited to computer system repair and
22 maintenance, software development and



- 1 installation, information sharing subscriptions,
2 and recording agreements;
- 3 (C) Developing and implementing best practices and
4 methods to provide greater security of the
5 bureau's information system;
- 6 (D) Updating and implementing the bureau's policies
7 and procedures manuals, or creating and
8 implementing policies and procedures for areas
9 where manuals do not exist so that all procedures
10 are performed uniformly;
- 11 (E) Developing and implementing strong human resource
12 management practices, including reviewing and
13 revising employee job descriptions, duties,
14 salary schedules and performance incentives;
- 15 (F) Developing and implementing best practices for
16 personnel performance evaluations and employee
17 disciplinary procedures to ensure that all
18 employees are meeting or exceeding minimum
19 performance requirements and expectations;
- 20 (G) Developing and managing an effective,
21 transparent, and fair practice for overtime work



1 at the bureau to ensure an equal distribution of
2 and opportunity for overtime work;

3 (H) Actively engaging and consulting with the
4 leadership of the Hawaii Government Employees
5 Association to ensure union representation and
6 consultation on all matters concerning its union
7 members;

8 (I) Establishing and implementing standard cash
9 management practices and procedures to
10 efficiently and accurately account for all moneys
11 flowing in and out of the bureau;

12 (J) Developing and implementing appropriate job
13 training to ensure that all employees are able to
14 perform efficiently and effectively within their
15 job title capacity; and

16 (K) Addressing staff needs and staff budgetary
17 constraints;

18 (2) Concentration on developing strategic initiatives for
19 the bureau, including but not limited to:

20 (A) Developing an effective, operational, and secure
21 computer information system for document



1 retrieval that will be timely, useful, and relied
2 upon by entities in the title industry;

3 (B) Considering whether it is still appropriate for
4 the bureau to remain under the department of land
5 and natural resources;

6 (C) Examining and identifying best practices in
7 dealing with timeshares recorded at the bureau by
8 reviewing other jurisdictions' practices;

9 (D) Examining, identifying, and adopting best
10 practices to improve the operations and employee
11 management of the bureau, including a system of
12 periodic review and evaluation, and establishing
13 performance indicators, benchmarks, and
14 objectives, to achieve greater accountability and
15 customer satisfaction;

16 (E) Reviewing the personnel management at the bureau
17 and developing improvements and best practices to
18 increase work productivity and employee
19 satisfaction;

20 (F) Examining the current recording system at the
21 bureau, reviewing and exploring other
22 jurisdictions' recording systems, and



- 1 implementing best practices to improve the
- 2 bureau's recording system; and
- 3 (G) Establishing a timeline and assigning
- 4 responsibilities to implement operational and
- 5 strategic initiatives at the bureau;
- 6 (3) Examine and study the feasibility of possible methods
- 7 to re-evaluate and modernize the operational and
- 8 employee functions of the bureau, including but not
- 9 limited to:
- 10 (A) Examining the policies, procedures, and
- 11 operations of state agencies charged with similar
- 12 responsibilities and functions as the bureau;
- 13 (B) Examining the roles, duties, and functions of the
- 14 land court and regular system staffs of the
- 15 bureau from a union and employee perspective;
- 16 review other state agencies' activities,
- 17 policies, and rules relating to employee
- 18 training, job descriptions, pay scales,
- 19 disciplinary procedures, and performance
- 20 evaluations; and identifying and developing
- 21 recommendations to re-evaluate and modernize the



1 roles, duties, and functions of the land court
2 and regular system staffs of the bureau;

3 (C) Examining the operational roles, duties and
4 functions of the bureau from a legal and
5 legislative perspective; reviewing other
6 jurisdictions' activities, policies, directives,
7 and laws relating to recording the title to land;
8 and identifying and developing recommendations to
9 revamp and modernize the operational roles,
10 duties, and functions of the bureau; and

11 (D) Establishing findings and developing
12 recommendations on how the bureau may re-vamp its
13 employee functions and modernize its operational
14 functions to become a more effective, efficient,
15 and reliable operation for the State and the
16 title industry;

17 (4) Develop and implement a policy plan and procedure to
18 safeguard personal information contained in documents
19 and records that the bureau collects, maintains, and
20 disseminates for public inspection, including the
21 following:



- 1 (A) Examining policies, procedures, and operations of
2 state agencies charged with the responsibility of
3 developing policies and procedures to prevent,
4 monitor, and enforce rules and statutes relating
5 to safeguarding personal information, especially
6 in light of the enactment of chapter 487J, Hawaii
7 Revised Statutes, relating to social security
8 number protection applying to all businesses and
9 government agencies in Hawaii;
- 10 (B) Developing and implementing procedures that will
11 enable the bureau to identify information deemed
12 personal and confidential in documents and
13 develop a procedure to ensure that personal
14 identifying information remains confidential;
- 15 (C) Developing and implementing procedures that will
16 enable the bureau to account for and keep track
17 of the information it disseminates to the public,
18 including via the Internet, in-person or mail
19 requests, or computer information subscription
20 services; and
- 21 (D) Reviewing all statutes and administrative rules
22 relating to all documents recorded at the bureau,



1 and proposing any necessary amendments to ensure
2 that personal information is kept confidential in
3 the course of disseminating bureau information to
4 the public;

5 (5) Examine and study the feasibility of merging the
6 existing regular system and land court systems of land
7 recordation into a single unified system of
8 recordation, including legal and practical impediments
9 to creating such a system, including but not limited
10 to:

11 (A) Performing a survey of systems of land
12 recordation in other jurisdictions, including
13 dual-systems and unified systems, to identify
14 best practices and existing challenges in those
15 jurisdictions;

16 (B) Working with stakeholders of the bureau to
17 identify current aspects of property recordation
18 in Hawaii that are critical to the continued
19 effectiveness of the bureau as a single unified
20 system of recordation;

21 (C) Considering the pros and cons of the regular
22 system that relies on title insurance to settle



1 discrepancies in ownership versus the land
2 court's explicit guaranty by the State of
3 property ownership; and

4 (D) Establishing findings and developing
5 recommendations on how the bureau may be unified
6 into a single system of recordation;

7 (6) Identify a new administrative assignment for the
8 bureau within the state government, including the
9 following:

10 (A) Performing a review of departments within the
11 state government to identify likely
12 administrative assignments for the bureau, in
13 order to produce a "short list" of agencies for
14 in-depth review, which shall not be limited to
15 executive branch departments, but shall include
16 the judiciary;

17 (B) Reviewing the policies, procedures, and current
18 functions of "short list" agencies to determine
19 the feasibility and advisability of reassigning
20 the bureau to one of those agencies;

21 (C) Consulting with the executives of the agencies
22 identified as relocation candidates, their



- 1 staffs, and stakeholders of those agencies as
2 identified by the respective executives;
- 3 (D) Consulting with the leadership of the Hawaii
4 Government Employees Association as necessary to
5 ensure union representation and consultation on
6 all matters concerning its union members; and
- 7 (E) Preparing a report on the reassignment of the
8 bureau; and
- 9 (7) Perform an in-depth review of the issues and potential
10 challenges presented by privatizing the functions of
11 the bureau, including:
- 12 (A) Preparing a survey of land recordation systems in
13 other jurisdictions that have been privatized,
14 which shall include:
- 15 (i) Provisions for ensuring the protection of
16 personal information and other sensitive
17 data;
- 18 (ii) Provisions for ensuring the reliability of
19 recorded information;
- 20 (iii) Experience with transitions between vendors,
21 including migration of data, assignments of



- 1 liability, and continuing assurances of data
- 2 safety and completeness; and
- 3 (iv) Existence and nature of agreements for the
- 4 protection of the State or other government
- 5 entity from claims of liability for errors
- 6 and omissions in the recordation or
- 7 preservation of land claims;
- 8 (B) Actively engaging and consulting with other
- 9 stakeholders of the bureau in analyzing the
- 10 appropriateness and potential for privatization,
- 11 including:
- 12 (i) The Hawaii Government Employees Association,
- 13 AFSCME Local 152, AFL-CIO;
- 14 (ii) The Hawaii Land Title Association;
- 15 (iii) The Hawaii Association of Realtors;
- 16 (iv) The financial services industry; and
- 17 (v) The legal community;
- 18 (C) Preparing a report on the privatization of the
- 19 bureau, including:
- 20 (i) An outline of criteria to be applied in
- 21 identifying and selecting a private entity



- 1 to assume the responsibilities of the
2 bureau;
- 3 (ii) Financial projections related to privatizing
4 bureau functions, including potential income
5 earned and expenses borne by the private
6 entity, adequacy of current pricing, and
7 potential net income to the State;
- 8 (iii) An analysis of tax collections now handled
9 by the bureau and, if appropriate, a process
10 for the selected private entity to collect
11 and transfer those tax revenues;
- 12 (iv) A recommendation of budgetary and personnel
13 provisions to allow the selected private
14 entity to accept the bureau and its
15 functions;
- 16 (v) A timeline and transition plan for the
17 privatization of the bureau; and
- 18 (vi) An analysis of other issues and
19 considerations that may militate against the
20 reassignment of the bureau to a private
21 entity.



1 (f) The special master and the advisory committee shall
2 submit to the legislature the following:

3 (1) A preliminary report to the legislature regarding the
4 areas of policy and operation that might be improved
5 prior to the 2009 regular session, and a final report
6 regarding the operational measures achieved and
7 strategic initiatives to be implemented prior to the
8 2010 regular session;

9 (2) A preliminary report to the legislature regarding the
10 operational functions at the bureau that need
11 improvement and modernization prior to the 2009
12 regular session, and a final report, including any
13 suggested legislation, prior to the 2010 regular
14 session;

15 (3) A written report regarding a policy plan and procedure
16 to safeguard personal information contained in
17 documents and records that the bureau collects,
18 maintains, and disseminates for public inspection to
19 the legislature including any proposed legislation,
20 prior to the 2009 regular session;

21 (4) A preliminary report regarding the creation of a
22 single unified system of recordation prior to the 2010



1 regular session, and a final report, including any
2 suggested legislation, prior to the 2011 regular
3 session;

4 (5) A preliminary report regarding the reassignment of the
5 bureau prior to the 2010 regular session, and a final
6 report, including any suggested legislation, prior to
7 the 2011 regular session; and

8 (6) A preliminary report to the legislature regarding the
9 privatization of the bureau prior to the 2010 regular
10 session, and a final report, including any suggested
11 legislation, prior to the 2011 regular session.

12 (g) The special master and the advisory council shall
13 cease to exist on June 30, 2011.

14 PART II

15 SECTION 3. Section 502-8, Hawaii Revised Statutes, is
16 amended by amending subsection (c) to read as follows:

17 "(c) All moneys in excess of [~~\$500,000~~] \$750,000 remaining
18 on balance in the bureau of conveyances special fund on June 30
19 of each year shall lapse to the credit of the state general
20 fund. On July 1 of each year, the director of finance is
21 authorized to transfer any excess funds in the bureau of
22 conveyances special fund to the state general fund."



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PART III

SECTION 4. Notwithstanding section 502-8(b), Hawaii Revised Statutes, there is appropriated out of the bureau of conveyances special fund the sum of \$ or so much thereof as may be necessary for fiscal year 2008-2009 for the hiring of a special master.


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

PART IV

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that section 4 shall take effect on July 1, 2008.

INTRODUCED BY:





Report Title:

Bureau of Conveyances; Special Master

Description:

Establishes a special master and an advisory council to address specific problem areas and develop a comprehensive plan for the bureau of conveyances to solve its current problems and create strategies to remain and maintain or exceed an efficient level of operation in the future.

