



*The Judiciary, State of Hawaii*

**Testimony to the Twenty-Fourth State Legislature, 2008 Session**  
House Committee on Consumer Protection & Commerce  
The Honorable Robert N. Herkes, Chair  
The Honorable Angus L.K. McKelvey, Vice Chair

House Committee on Judiciary  
The Honorable Tommy Waters, Chair  
The Honorable Blake K. Oshiro, Vice Chair

Thursday, February 14, 2008, 2:00 p.m.  
State Capitol, Conference Room 325

by  
Russell Tellio  
Court Administrator  
First Circuit Court

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 3172, Relating to Electronic Filings in the Bureau of Conveyances and the Office of the Assistant Registrar

**Judiciary's Position:**

The Judiciary takes no position on this measure but submits the following comments for consideration by the committee.

House Bill No. 3172 authorizes the registrar and assistant registrar of the Bureau of Conveyances to accept electronic signatures and electronically filed documents in lieu of an original document with original signatures.

While the Judiciary supports the concept of electronic filing for all legal documents, including the recordation of real estate documents with electronic signatures, without more detailed information regarding the system being proposed for the Bureau of Conveyances the Judiciary is hesitant to give its unequivocal support to such a system.

The "Registrar" referred to in the bill should be clarified to refer to the "registrar of conveyances" as described in §501-9 and §502-1 of the Hawaii Revised Statutes. Likewise, it is



House Bill No. 3172, Relating to Electronic Filings in the  
Bureau of Conveyances and the Office of the Assistant Registrar  
House Committees on Consumer Protection & Commerce and Judiciary  
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unclear whether the "Assistant Registrar" referred to in the bill means the assistant registrars of the Land Court described in §501-6, HRS, or perhaps another employee at the Bureau of Conveyances. Because it is unclear, it is suggested that this description be further clarified.

We respectfully submit that in consideration of the many questions that have been raised by the Joint Senate-House Investigative Committee on the Bureau of Conveyances with regards to the electronic record keeping system already installed at the Bureau of Conveyances, it is recommended that a provision for legislative and judicial oversight of the proposed system be included in this measure.

We note the following statement in the report submitted by the legislative investigative committee:

*“ . . . Despite the computer system’s extensive and integral role as the electronic repository of all recorded documents processed by the Bureau, the Bureau failed to exert the appropriate oversight with respect to the system’s installation, maintenance, and upgrading as well as subsequent installations and maintenance of computer servers and software. The Bureau’s lack of computer system oversight and management could ultimately affect the integrity of the Bureau’s operations, resulting in potentially enormous security ramifications.”* Draft Report Joint Senate-House Investigative Committee on the Bureau of Conveyances, at page 39-40.

In view of the findings contained that report and in consideration the investigations that are currently on-going by the Office of the Attorney General and Ethics Commission, the Judiciary recommends that any problems that may exist with the current electronic data system be fully identified and addressed before the Bureau of Conveyances proceeds with the implementation of a new electronic data system.

Thank you for the opportunity to comment on this measure.

LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**TESTIMONY OF THE CHAIRPERSON  
OF THE BOARD OF LAND AND NATURAL RESOURCES**

**On House Bill 3172— Relating to Electronic Filing In The Bureau Of Conveyances And The  
Office Of The Assistant Registrar**

**BEFORE THE HOUSE COMMITTEES ON  
CONSUMER PROTECTION AND COMMERCE  
and  
JUDICIARY**

**February 14, 2008**

House Bill 3172 is an Administration bill which would authorize the Registrar and Assistant Registrar of the Bureau of Conveyances (Bureau) and the Office of the Assistant Registrar to accept electronic instruments in lieu of original instruments with original signatures. The Department of Land and Natural Resources (Department) strongly supports this Administration legislation as a means to facilitate the recording process and improve delivery of information to the general public.

Presently, the Bureau and the Office of the Assistant Registrar accepts only original paper instruments with original signatures for recordation in the Regular System and the Land Court System. This bill will allow the Bureau and the Office of the Assistant Registrar to accept electronic documents for recordation once the Bureau and the Office of the Assistant Registrar have the capabilities to do so and the Department adopts rules specifying the format of acceptable electronic documents. An electronic cover sheet will be required to be filed together with the electronic document that will allow for faster indexing of documents.

The Departments strongly urges passage of this Administration bill.

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February 12, 2008

**On the Following Measure:**

HB 3172, Relating to Electronic filings in the Bureau of Conveyances and the Office of the Assistant Registrar.

HB 2302, HD1, Relating to Real Property.

**Before The:** COMMITTEE ON CONSUMER PROTECTION & COMMERCE  
COMMITTEE ON JUDICIARY

**Date:** Thursday, February 14, 2008      Time: 2:00 p.m.

**Place:** State Capitol, Conference Room 325

**Testifier(s):** Hawaii Land Title Association  
Hawaii Escrow Association  
Denise M. Kaehu, President HLTA  
Denise M. Kaehu, President HEA

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Chair Robert N. Herkes, Chair Tommy Waters and members of the Committee:

The Hawaii Land Title Association and the Hawaii Escrow Association support HB 3172, Relating to Electronic filing in the Bureau of Conveyances and the Office of the Assistant Registrar over and above HB 2302. Our respective Associations represent the eleven Hawaii Title and Escrow companies in our state which account for over 90% of the documents submitted for recordation at the Bureau.

Our members realize the importance of the Bureau being able to provide reliable recording services for Hawaii consumers and consumers worldwide. The Bureau is greatly in need of legislation that will authorize them to accept electronic signatures and electronically filed documents in lieu of original documents with original signatures. HB 3172 will allow documents to be archived in digital format, in lieu of micro-fiche as a means of archiving.

Studies have been previously conducted dating back to 1990's studying how to improve the efficiency of the Bureau by streamlining the recording procedures and by automating process flows with technology. Technology decreases the amount of redundancy of re-keying information, increases productivity, and creates efficiency which allows the staff to dedicate more time to customer service and addressing its backlog. Time more wisely spent helps create higher moral for the employees.

As a Committee member of DLNR's Chair Laura Thielen's Special Working Group I have first hand knowledge of her plan to automate the Bureau which will require the revision of our current statute to allow electronic signatures and electronically file documents. Our Committee members have worked together as representatives of the professional industry organizations which interact with the Bureau on a daily basis including representatives of the HGEA and the Attorney General's office. Our goals

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were to increase the security level of the records database, improve customer service and streamline the recording process. Many states are already using electronic recording systems.

We had initially supported HB2302, with the exception of requiring the Judiciary to study Land Court filings and digital archiving.

In the proposal for the design of software to automate the Bureau it would be inclusive of both recordings systems. The intent of the software is to streamline the data processing, not to change the rules governing the recording requirements of either recording system. Currently the Land Court backlog for endorsing Transfer Certificates of Title is roughly eighteen months in arrears which causing problems in verifying recorded data. The current format of the documents would only change slightly, but the mandatory information that must be provided within the body of the document would not change. You would essentially be receiving the same documents as we do now, with the exception of it being electronically transmitted, therefore the need for the change in the current statute. There will still be a review of the documents by the Bureau staff, but confirmation of recording, payment for the recording fees, conveyance tax, penalty and interest all would be handled via a cashiering module within the system. Reporting features, electronic cashiering, automatic calculation of fees, indexing and verification, secure online access to document images for consumers, electronic warehouse for document images, privacy information requirements and a disaster recovery plan would be incorporated within the software. Electronic images are the wave of the future and we owe it to our consumers to provide them with accurate and current recorded data. We may even be able to create additional modules that will help create Transfer Certificates of Title electronically within the same day.

We respectfully request passage of this measure with our recommendations. This will allow us to proceed with our goal to automate in the near future, improve efficiency, productivity, secure private information, archive documents electronically, provide a disaster plan for the State and greatly improve the level of customer service.



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February 14, 2008

**The Honorable Robert N. Herkes, Chair**  
House Committee on Consumer Protection & Commerce

**The Honorable Tommy Waters, Chair**

House Committee on Judiciary

State Capitol, Room 325

Honolulu, Hawaii 96813

**RE: H.B. 3172 Relating to Electronic Filings in the Bureau of Conveyances and  
the Office of the Assistant Registrar.**

**Hearing Date: February 14, 2008 @ 2:00 p.m., Room 325**

Dear Chairs Herkes and Waters and members of the House Committees on Consumer  
Protection & Commerce and Judiciary:

On behalf of our 10,000 members in Hawaii, the Hawaii Association of REALTORS®  
(HAR) **supports the intent of H.B 3172.**

H.B. 3172 proposes to authorize the Registrar and Assistant Registrar of the Bureau of  
Conveyances to accept electronic documents with electronic signatures and electronically  
filed documents in lieu of an original document with original signatures. HAR supports  
the streamlining of the process to record real estate documents at the Bureau of  
Conveyances.

Mahalo for the opportunity to testify.

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American Resort Development Association  
c/o PMCI Hawaii 84 N. King Street Honolulu, HI 96817 (808) 536-5688

February 13, 2008

TO: Representative Robert Herkes, Chair  
Representative Angus McKelvey, Vice Chair  
House Committee on Consumer Protection & Commerce

Representative Tommy Waters, Chair  
Representative Blake Oshiro, Vice Chair  
House Committee on Judiciary

FROM: ARDA-Hawaii  
Contact: Donalyn Dela Cruz, PMCI Hawaii

RE: **Joint House Committee on Consumer Protection & Commerce/Judiciary**  
**Thursday, February 14, 2008**  
**Room 325, 2:00 p.m.**  
**House Bill 3172; Relating to Electronic Filings in the Bureau of Conveyances and the Office of the Assistant Registrar**

Dear Chair Herkes, Chair Waters and members of the committees:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for over eight percent of the State's lodging inventory.

ARDA-Hawaii **supports** HB 3172 which would authorize the Registrar and Assistant Registrar of the Bureau of Conveyance to accept electronic signatures and electronically filed documents in lieu of an original document with original signatures.

This will facilitate efficiency within the Bureau to offer indexes and documents to the public and related industries on a timely basis.

Thank you very much for the opportunity to offer testimony on this measure.

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GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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February 13, 2008

TO: **The Honorable Robert N. Herkes, Chair**  
House Committee on Consumer Protection & Commerce  
**The Honorable Tommy Waters, Chair**  
House Committee on Judiciary  
State Capitol, Room 325  
Honolulu, Hawaii 96813

Via Email: [CPCtestimony@Capitol.hawaii.gov](mailto:CPCtestimony@Capitol.hawaii.gov)

FROM: Joanna Markle

RE **H.B. 3172 Relating to Electronic Filings in the Bureau of Conveyances  
and the Office of the Assistant Registrar.**  
**Hearing Date: February 14, 2008 @ 2:00 p.m., Room 325**

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Dear Chairs Herkes and Waters and members of the House Committees on Consumer Protection & Commerce and Judiciary:

I am Joanna Markle testifying on behalf of Wyndham Worldwide. Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its new resort at Waikiki Beach Walk.

Wyndham Worldwide strongly supports H.B. 3172 to authorize the Registrar and Assistant Registrar of the Bureau of Conveyances to accept electronic documents with electronic signatures and electronically filed documents in lieu of an original document with original signatures. This measure will allow for increased efficiency of the recording of documents.

Thank you very much for your consideration and for this opportunity to submit testimony.