

JAN 28 2009

A BILL FOR AN ACT

RELATING TO BUREAU OF CONVEYANCES.

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

1 SECTION 1. The joint legislative investigative committee
2 established pursuant to Senate Concurrent Resolution No. 226,
3 adopted during the 2007 regular legislative session, identified
4 serious shortcomings relating to the bureau of conveyances'
5 operational mismanagement, potential loss of revenue, and
6 potential areas of vulnerability. The joint legislative
7 investigative committee recognized that automation of certain
8 functions in the bureau of conveyances may address one of the
9 major underlying problems, work backlog. Modernizing through
10 electronic recordation will improve efficiency, however, a
11 gradual approach will prevent the existing work backlog from
12 increasing due to a shift in procedures.

13 The purpose of this Act is to:

- 14 (1) Transfer fee simple time share interest from the land
15 court system (Torrens) to the regular system; and
16 (2) Establish a pilot program to implement electronic
17 recording of fee simple time share interest.



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

19 (B) If separate certificates of title have been
20 issued for individual fee time share interests in
21 the time share plan, the assistant registrar
22 shall record in the bureau of conveyances,



1 pursuant to chapter 502, the certificate of title
2 for each fee time share interest in the time
3 share plan;

4 (2) Record in the bureau of conveyances, pursuant to
5 chapter 502, the instrument, document, or paper
6 presented to the assistant registrar for filing or
7 recording. The instrument, document, or paper shall
8 be recorded immediately after the certificate or
9 certificates of title; and

10 (3) Cancel the certificate of title.

11 (b) The registrar or assistant registrar shall note the
12 recordation and cancellation of the certificate of title in the
13 registration book and in the records of the application for
14 registration of the land that is the subject of the certificate
15 of title. The notation shall state the bureau of conveyances
16 document number for the certificate of title so recorded, the
17 certificate of title number, and the land court application
18 number, map number, and lot number for the land that is the
19 subject of the certificate of title so recorded.

20 (c) It shall not be necessary for the registered owner,
21 the registrar, the assistant registrar, or any other person to



1 seek or obtain an order of court prior to or in connection with
2 the performance of any of the foregoing actions.

3 **§501-B Effect of deregistration.** (a) Upon the
4 recordation in the bureau of conveyances of a certificate of
5 title pursuant to section 501-A:

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

8 (2) No instruments, documents, or papers relating solely
9 to deregistered land shall be filed or recorded with
10 the assistant registrar pursuant to this chapter, but
11 shall instead be recorded in the bureau of conveyances
12 pursuant to chapter 502; and

13 (3) Except as otherwise expressly provided in this
14 chapter, chapter 502 shall apply to the deregistered
15 land.

16 (b) Recordation of a certificate of title pursuant to
17 section 501-A shall not disturb the effect of any proceedings in
18 the land court where the question of title has been determined.

19 All proceedings had in connection with the registration of title
20 that relate to the settlement or determination of title before
21 that recording, and all provisions of this chapter that relate
22 to the status of the title, shall have continuing force and



1 effect with respect to the period of time that title remained
2 under the land court system. Those provisions giving rise to a
3 right of action for compensation from the State, including but
4 not limited to any limits on and conditions to the recovery of
5 compensation and the State's rights of subrogation with respect
6 thereto, shall also continue in force and effect with respect to
7 the period of time that title remained under the land court
8 system.

9 **§501-C Effect of deregistration in specific cases.**

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

- 14 (1) Any document, instrument, or paper assigning,
15 extending, continuing, dissolving, discharging,
16 releasing in whole or in part, reducing, canceling,
17 extinguishing, or otherwise modifying or amending any
18 of the following documents, instruments, or papers
19 that have been registered pursuant to this chapter and
20 that pertain to deregistered land:

- 21 (A) A mortgage;



- 1 (B) An agreement of sale for the sale of a fee time
2 share interest. After the recordation of the
3 certificate of title, any agreement of sale shall
4 be subject to section 502-85 and shall not be
5 subject to section 501-101.5;
- 6 (C) A correction deed, correction mortgage, or other
7 document, instrument, or paper correcting a
8 document, instrument, or paper registered
9 pursuant to this chapter;
- 10 (D) A lien or claim of lien on a fee time share
11 interest held or claimed by a time share owners
12 association, an association of apartment owners,
13 or other homeowners' association;
- 14 (E) A lease that demises a fee time share interest;
- 15 (F) An order of court, attachment, writ, or other
16 process against a fee time share interest;
- 17 (G) A mechanic's or materialman's lien or other lien
18 upon a fee time share interest;
- 19 (H) A lis pendens or notice of pendency of action,
20 notice, affidavit, demand, certificate,
21 execution, copy of execution, officer's return,
22 or other instrument relating to a fee time share



1 interest and otherwise required or permitted to
2 be recorded or registered in connection with the
3 enforcement or foreclosure of any lien, whether
4 by way of power of sale pursuant to a power of
5 sale under section 667-5, or otherwise; or

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

14 (2) A lis pendens or notice of pendency of action, notice,
15 affidavit, demand, certificate, execution, copy of
16 execution, officer's return, or other instrument
17 relating to a fee time share interest and otherwise
18 required or permitted to be recorded or registered in
19 connection with the enforcement or foreclosure of any
20 lien, whether by way of power of sale pursuant to a
21 power of sale under section 667-5, or otherwise; and



1 (3) Any declaration annexing property to, any declaration
2 deannexing property from, any amendment or supplement
3 to, correction of, or release or termination of any of
4 the following documents, instruments, or papers that
5 have been registered pursuant to this chapter and that
6 pertain to deregistered land:

7 (A) A declaration of covenants, conditions,
8 restrictions, or similar instrument, by whatever
9 name denominated, establishing or governing a
10 time share plan, or the bylaws of a time share
11 owners association, notice of time share plan, or
12 other time share instrument;

13 (B) A declaration of condominium property regime or
14 similar declaration by whatever name denominated,
15 the bylaws of the association of apartment
16 owners, the condominium map, any declaration of
17 merger and any instrument effecting a merger;
18 provided that if only some of the condominium
19 apartments are included in the time share plan,
20 then it shall be necessary to register, and to
21 note on the certificate of title for any
22 apartment not included in the time share plan:



- 1 (i) Any declaration annexing property to the
- 2 condominium property regime;
- 3 (ii) Any declaration deannexing property from the
- 4 condominium property regime;
- 5 (iii) Any instrument effecting a merger of two or
- 6 more condominium projects or two or more
- 7 phases of a condominium project; and
- 8 (iv) Any document, instrument, or paper amending,
- 9 supplementing, correcting, releasing, or
- 10 terminating any of the documents listed in
- 11 subparagraph (B)(i) through (iii), the
- 12 declaration of condominium property regime,
- 13 the bylaws of the association of apartment
- 14 owners, the condominium map, or any
- 15 declaration of merger; and
- 16 (C) A declaration of covenants, conditions and
- 17 restrictions or similar instrument, by whatever
- 18 name denominated, the bylaws of any homeowners
- 19 association, any declaration of annexation or
- 20 deannexation, any amendments and supplements
- 21 thereto, and any cancellation or extinguishment
- 22 thereof, any declaration of merger and any



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

8 (i) Any declaration annexing property to the
9 declaration;

10 (ii) Any declaration deannexing property from the
11 operation of the declaration; and

12 (iii) Any document, instrument, or paper amending,
13 supplementing, correcting, releasing, or
14 terminating any of the documents listed in
15 subparagraph (C)(i) or (ii), the declaration
16 of covenants, conditions and restrictions,
17 or the bylaws of the homeowners association.

18 §501-D Chain of title of deregistered land. (a) A

19 certificate of title recorded pursuant to section 501-A shall
20 constitute a new chain of record title in the registered owner
21 of any estate or interest as shown on the certificate of title
22 so recorded, subject only to the following:



- 1 (1) The estates, mortgages, liens, charges, instruments,
2 documents, and papers noted on the certificate of
3 title so recorded;
- 4 (2) Liens, claims, or rights arising or existing under the
5 laws or Constitution of the United States, which the
6 statutes of this State cannot require to appear of
7 record in the registry; provided that notices of liens
8 for internal revenue taxes payable to the United
9 States, and certificates affecting the liens, shall be
10 deemed to fall within this paragraph only if the same
11 are recorded in the bureau of conveyances as provided
12 by chapter 505;
- 13 (3) Unpaid real property taxes assessed against the land
14 and improvements covered by the certificate of title
15 as recorded, with interest, penalties, and other
16 additions to the tax, which, unless a notice is filed
17 and registered as provided by county real property tax
18 ordinance, shall be for the period of three years from
19 and after the date on which the lien attached, and if
20 proceedings for the enforcement or foreclosure of the
21 tax lien are brought within the period, until the



- 1 termination of the proceedings or the completion of
2 the tax sale;
- 3 (4) State tax liens, if the same are recorded in the
4 bureau of conveyances as provided by section 231-33;
- 5 (5) Any public highway, or any private way laid out under
6 the provisions of law, when the certificate of title
7 does not state that the boundary of the way has been
8 determined;
- 9 (6) Any lease, coupled with occupancy, for a term not
10 exceeding one year; provided that the priority of the
11 unrecorded lease shall attach only at the date of the
12 commencement of the unrecorded lease and expire one
13 year from the date or sooner if so expressed;
- 14 (7) Any liability to assessments for betterments, or
15 statutory liability that may attach to land as a lien
16 prior to or independent of, the recording or
17 registering of any paper of the possibility of a lien
18 for labor or material furnished in the improvement of
19 the land; provided that the priority of any liability
20 and the lien therefor (other than for labor and
21 material furnished in the improvement of the land
22 which shall be governed by section 507-43) shall cease



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

15 (8) The possibility of reversal or vacation of the decree
16 of registration upon appeal;

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

20 (10) Child support liens that are created pursuant to order
21 or judgment filed through judicial or administrative
22 proceeding in this State or in any other state, the



1 recording of which shall be as provided by chapter
2 576D.

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

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

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

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

16 (1) No instrument, document, or paper shall have any
17 greater or other effect after the certificate of title
18 is recorded pursuant to section 501-A, as constructive
19 notice or otherwise, than it had or acquired at the
20 time it was registered pursuant to this chapter or
21 made; and



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

11 (d) If a certificate of title recorded pursuant to section
12 501-A relates to more than one fee time share interest, then
13 subsection (a) shall apply to each fee time share interest
14 separately and only those items described in subsection (a) that
15 encumbered a particular fee time share interest prior to
16 recordation of the certificate of title will continue to
17 encumber that fee time share interest after the recordation.

18 **§501-E Status of fee time share interest as real property.**
19 Nothing in this part shall affect the status of a fee time share
20 interest as real property.

21 **§501-F Dual recording involving deregistered land.**
22 Nothing in this part shall prevent or prohibit the registration



1 of an instrument that conveys, assigns, or affects both
2 registered land and deregistered land.

3 **§501-G Reference to prior recorded instrument.** Any
4 instrument conveying or otherwise dealing with deregistered land
5 and which requires a reference to a prior recorded instrument
6 may satisfy the requirements of section 502-33 by reference to
7 the land court document number (in the case of a document
8 recorded pursuant to chapter 501) or to the book and page or
9 bureau of conveyances document number (in the case of a document
10 recorded pursuant to chapter 502) of the instrument to which
11 reference is made.

12 **§501-H Legal incidents of deregistered land.** Nothing in
13 this part shall, in any way, be construed to relieve
14 deregistered land, or the owners thereof, of:

- 15 (1) Any rights incident to the relation of husband and
16 wife;
- 17 (2) Liability to attachment or mesne process or levy on
18 execution;
- 19 (3) Liability to any lien of any description established
20 by law on the deregistered land, or in the interest of
21 the owner in the deregistered land;
- 22 (4) The right to change the laws of descent;



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

13 **§501-I Jurisdiction for matters pertaining to deregistered**
14 **land.** The land court shall have jurisdiction over all matters
15 relating to instruments required by this part to be registered
16 pursuant to this chapter. Where any party is in doubt as to
17 whether an instrument must be registered, the question shall be
18 referred to the land court for decision; and the court, after
19 notice to all parties and a hearing, shall enter an order
20 determining the question. Notice to the owner of a fee time
21 share interest shall be given by mailing notice to the
22 association of time share owners required to be established



1 pursuant to section 514E-29, and the association shall represent
2 the owners in any matters and proceedings, without prejudice to
3 the right of any individual owner to appear and be heard as a
4 separate party. Except as expressly provided in this section,
5 nothing in this part shall deprive the land court of exclusive
6 jurisdiction pursuant to section 501-101 over registered land,
7 or any interest therein, other than registered land that becomes
8 deregistered land. The circuit court shall have jurisdiction,
9 pursuant to section 603-21.5(a)(3), over:

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

18 SECTION 3. Chapter 657, Hawaii Revised Statutes, is
19 amended by adding a new section to part II to be appropriately
20 designated and to read as follows:

21 "§657- Deregistered land. In no event shall the period
22 of limitations provided in this part begin prior to the



1 recording of the certificate of title for deregistered land,
2 as defined in section 501-20."

3 SECTION 4. Chapter 501, Hawaii Revised Statutes, is
4 amended by designating sections 501-1 to 501-248 as part I,
5 entitled:

6 "PART I. GENERAL PROVISIONS"

7 SECTION 5. Section 501-20, Hawaii Revised Statutes, is
8 amended by adding two new definitions to be appropriately
9 inserted and to read as follows:

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

12 "Fee time share interest" means a time share interest,
13 other than a leasehold time share interest, that consists of or
14 includes a present, undivided interest in registered land,
15 including but not limited to an undivided interest in one or
16 more fee simple condominium apartments established in whole or
17 in part on registered land."

18 SECTION 6. Section 501-71, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§501-71 Decree of registration; conditional when;
21 quieting title, exceptions; reopened when. (a) If the court
22 after a hearing finds that the applicant, at the time of filing



1 an application, or subsequently, had title, as stated in the
2 application, that the title is proper for registration, and that
3 since filing the application, the title of the applicant has not
4 been encumbered in any manner, then a decree of confirmation and
5 registration as prayed for shall be entered.

6 (b) If the court finds that the applicant, at the time of
7 filing an application, or subsequently, had title, as stated in
8 the application, that the title is proper for registration, and
9 that subsequent to the filing of the application, the title has
10 been encumbered, then the title shall be registered subject to
11 the encumbrances so found.

12 (c) If the court finds that the applicant, at the time of
13 filing an application, or subsequently, had title, as stated in
14 the application, that the title is proper for registration, and
15 that subsequent to filing the application, the applicant has
16 conveyed away all or any portion or portions of the premises or
17 interest therein sought to be registered, then a decree of
18 confirmation and registration shall be entered, covering the
19 entire premises, confirming title in the applicant and the
20 person or persons deriving their title through the applicant, to
21 the premises or interest in accordance with the applicant's or
22 their respective true ownership of the whole or any portion or



1 portions thereof or interest therein at the time of filing the
2 decree, and subject to all encumbrances affecting all or any
3 portion thereof.

4 (d) Every decree of registration of absolute title shall
5 bind the land, and quiet the title thereto, subject only to the
6 exceptions stated in section 501-82. It shall be conclusive
7 upon and against all persons, including the State, whether
8 mentioned by name in the application, notice, or citation, or
9 included in the general description "to all whom it may
10 concern." The decree shall not be opened by reason of the
11 absence, infancy, or other disability of any person affected
12 thereby, nor by any proceeding for reversing judgments or
13 decrees [~~subject, to the right of~~], except that any person
14 deprived of land or of any estate or interest therein by a
15 decree of registration obtained by fraud [~~to~~] may file a
16 petition for review within one year after the entry of the
17 decree [~~provided no~~], unless an innocent purchaser for value
18 has acquired an interest. If there is any such purchaser, the
19 decree of registration shall not be opened but shall remain in
20 full force and effect forever, subject only to the right of
21 appeal [~~hereinbefore~~] herein provided. Any person aggrieved by
22 the decree in any case may pursue remedy by action of tort



1 against the applicant or any other person for fraud, in
2 procuring the decree.

3 (e) Deregistration pursuant to sections 501-A to 501-I
4 shall not alter or revoke the conclusive nature or effect of a
5 decree of registration, which shall continue to quiet the title
6 to the deregistered land as to all claims based arising prior to
7 the recording of the certificate of title pursuant to section
8 501-A, except claims as would not otherwise be barred under this
9 chapter if the lands were not registered."

10 SECTION 7. Section 501-86, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§501-86 Registration runs with land.** The obtaining of a
13 decree of registration, and the entry of a certificate of title,
14 shall be regarded as an agreement running with the land, and
15 binding upon the applicant and all the applicant's successors in
16 title, that the land shall be and forever remain registered
17 land, and subject to this chapter [~~and of all acts in amendment~~
18 hereof.], except as provided in part II."

19 SECTION 8. Section 501-108, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) An owner desiring to convey in fee registered land or
22 any portion thereof shall execute a deed of conveyance, which



1 the grantor or the grantee may present to the assistant
2 registrar in the bureau of conveyances; provided that no deed,
3 mortgage, lease, or other voluntary instrument shall be accepted
4 by the assistant registrar for registration unless a reference
5 to the number of the certificate of title of the land affected
6 by such instrument is incorporated in the body of the instrument
7 tendered for registration. If the certificate reference in the
8 instrument is not current, an endorsement of the current
9 certificate of title shall be required.

10 The assistant registrar shall note upon all instruments
11 filed or recorded concurrently with the recorded instrument the
12 document number [and], the certificate of title number, and, in
13 the case of deregistered land, the bureau of conveyances
14 document number in the spaces provided therefor wherever
15 required.

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

17 (1) The assistant registrar shall thereupon, in accordance
18 with the rules and instructions of the court, make out
19 in the registration book a new certificate of title to
20 the grantee [-];



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

4 (3) The original certificate shall be stamped
5 "canceled" ~~[-]~~ i; and

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

9 SECTION 9. Section 501-116, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§501-116 Mortgage registration necessary.** The owner of
12 any interest in registered land may mortgage ~~[such]~~ the interest
13 by executing a mortgage thereof. Such a mortgage may be
14 assigned, extended, discharged, released in whole or in part, or
15 otherwise dealt with by the mortgagee by any form of instrument
16 sufficient in law for the purpose. ~~[The]~~ Except as provided in
17 part II, the mortgage, and all instruments assigning, extending,
18 discharging, and otherwise dealing with the mortgage, shall be
19 registered and shall take effect upon the title of the mortgaged
20 property only from the time of registration."

21 SECTION 10. Section 501-171, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) When the owner of registered land, or of any estate
2 or interest therein, dies, having devised the same by will, the
3 person or persons entitled thereto shall file or record with the
4 assistant registrar of the land court a correct statement of the
5 full names of the devisees, the residence or post office address
6 of each and their marital status and a reference to the number
7 of the certificate of title of the land affected, a certified
8 copy of the letters appointing the personal representative
9 showing the powers of the personal representative, or a
10 certified copy of an acknowledgment of authority, and either a
11 certified copy of an order of the circuit court determining the
12 persons entitled to distribution of the registered land and
13 directing or approving distribution or a deed from the personal
14 representative to the devisee or devisees, and thereupon the
15 assistant registrar shall cancel the certificate issued to the
16 testator, and, except as provided in part II, enter a new
17 certificate to the devisee or devisees. When the owner of
18 registered land or of any estate or interest therein dies, not
19 having devised the same, the persons entitled thereto by law
20 shall file or record with the assistant registrar a correct
21 statement of the full names of the heirs, the residence or post
22 office address of each, and their marital status, a certified



1 copy of the letters appointing the personal representative
2 showing the powers of the personal representative, or a
3 certified copy of an acknowledgment of authority, and either a
4 certified copy of an order of the circuit court in probate
5 proceedings determining the persons entitled to distribution of
6 the registered land and directing or approving distribution or a
7 deed from the personal representative to the heir or heirs, and
8 thereupon the assistant registrar shall cancel the certificate
9 issued to the intestate, and, except as provided in part II,
10 enter a new certificate to the heir or heirs entitled thereto."

11 SECTION 11. Section 502-7, Hawaii Revised Statutes, is
12 amended by amending the definition of "signature" to read as
13 follows:

14 "Signature" means the name of a person as written by the
15 individual [æ], the affixing of a mark or finger or toe
16 print [÷], or electronic signature as that term is defined in
17 chapter 489E."

18 SECTION 12. Section 502-31, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§502-31 Recording, method. (a) The registrar shall make
21 or cause to be made an entire literal copy of all instruments,
22 with their original signatures, required to be recorded in the



1 registrar's office, and the registrar, the registrar's deputy,
2 or clerk shall certify its correspondence with the original,
3 after which the registrar, the registrar's deputy, or clerk
4 shall certify upon the exterior, or indorse upon the recorded
5 instrument with the original signature, the date of its registry
6 and the document number.

7 **(b)** The registrar, for purposes of the general indexes of
8 the bureau of conveyances, shall use the names of the parties as
9 they first appear in the recorded instrument. All names of all
10 natural persons signing in their individual capacity shall be
11 typewritten, stamped, legibly printed by hand, or by a
12 mechanical or electrical printing method beneath all signatures.
13 The provisions of this paragraph shall not apply to any deed or
14 conveyance instrument executed prior to July 1, 1989.

15 **(c)** The registrar or the registrar's deputy may refuse to
16 accept for record any document of a size larger than eight and
17 one-half inches by eleven inches, or which contains a schedule
18 or inventory sheet in excess of such size.

19 **(d)** This section shall apply to all instruments presented
20 for recording in the bureau of conveyances, unless otherwise
21 provided by rules adopted by the department of land and natural
22 resources, pursuant to chapter 91.



1 (e) All instruments to be recorded shall include the
2 original signature and the top three and one-half inches of
3 space of the first page shall be reserved for recording
4 information for the assistant registrar on the left half of such
5 space, and for the registrar of conveyances on the right half of
6 such space. The following one inch of space shall be reserved
7 for information showing to whom the document should be returned
8 beginning one and one-half inch from the left margin and not
9 exceeding three and one-half inches per line. In addition, the
10 first page shall identify and include, if possible, all names of
11 the grantors and all names and addresses of the grantees, the
12 type of document, and the tax map key number. Indorsements, if
13 any, may be made on a conforming fly sheet. No papers or
14 materials, written or otherwise, shall be secured or attached to
15 a page in any manner that may conceal any other written text.
16 If an instrument consists of more than one page, each page shall
17 be single-sided sheets of written text numbered consecutively,
18 beginning with number one, and shall be stapled once in the
19 upper left corner. No instrument shall have a cover or backer
20 attached. The registrar of conveyances shall be permitted to
21 remove any rivets affixed to any instrument. The registrar may
22 refuse to accept all instruments, papers, or notices presented



1 for recordation that will not reproduce legibly under
2 photographic, electronic, or electrostatic methods.
3 Notwithstanding any other law to the contrary, the registrar may
4 accept an electronic instrument in lieu of an original
5 instrument with original signatures subject to the requirements
6 set forth in rules adopted by the department of land and natural
7 resources consistent with this section and chapter 489E."

8 SECTION 13. Section 634-51, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§634-51 Recording of notice of pendency of action. In
11 any action concerning real property or affecting the title or
12 the right of possession of real property, the plaintiff, at the
13 time of filing the complaint, and any other party at the time of
14 filing a pleading in which affirmative relief is claimed, or at
15 any time afterwards, may record in the bureau of conveyances a
16 notice of the pendency of the action, containing the names or
17 designations of the parties, as set out in the summons or
18 pleading, the object of the action or claim for affirmative
19 relief, and a description of the property affected thereby.
20 From and after the time of recording the notice, a person who
21 becomes a purchaser or incumbrancer of the property affected
22 shall be deemed to have constructive notice of the pendency of



1 the action and be bound by any judgment entered therein if the
2 person claims through a party to the action; provided that in
3 the case of registered land, section 501-151 [~~and~~], sections
4 501-241 to 501-248, and sections 501-A to 501-I shall govern.

5 This section authorizes the recording of a notice of the
6 pendency of an action in a United States District Court, as well
7 as a state court."

8 SECTION 14. Section 636-3, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§636-3 Judgment, orders, decrees; lien when. Any money
11 judgment, order, or decree of a state court or the United States
12 District Court for the District of Hawaii shall be a lien upon
13 real property when a copy thereof, certified as correct by a
14 clerk of the court where it is entered, is recorded in the
15 bureau of conveyances. No such lien shall continue beyond the
16 length of time the underlying judgment, order, or decree is in
17 force. Except as otherwise provided, every judgment shall
18 contain or have endorsed on it the Hawaii tax identification
19 number, the federal employer identification number, or the last
20 four digits only of the social security number for persons,
21 corporations, partnerships, or other entities against whom the
22 judgment, order, or decree is rendered. If the debtor has no



1 social security number, Hawaii tax identification number, or
2 federal employer identification number, or if that information
3 is not in the possession of the party seeking registration of
4 the judgment, order, or decree, the judgment, order, or decree
5 shall be accompanied by a certificate that provides that the
6 information does not exist or is not in the possession of the
7 party seeking recordation of the judgment. Failure to disclose
8 or disclosure of an incorrect social security number, Hawaii tax
9 identification number, or federal employer identification number
10 shall not in any way adversely affect or impair the lien created
11 upon recordation of the judgment, order, or decree. When any
12 judgment, order, or decree is fully paid, the creditor or the
13 creditor's attorney of record in the action [~~shall~~], at the
14 expense of the debtor, shall execute, acknowledge, and deliver
15 to the debtor a satisfaction thereof, which may be recorded in
16 the bureau. Every satisfaction or assignment of judgment,
17 order, or decree shall contain a reference to the book and page
18 or document number of the registration of the original judgment.
19 The recording fees for a judgment, order, or decree and for each
20 assignment or satisfaction of judgment, order, or decree shall
21 be as provided by section 502-25.



1 In the case of registered land, section 501-102 [and],
2 sections 501-241 to 501-248, and sections 501-A to 501-I shall
3 govern."

4 SECTION 15. Pursuant to sections 501-218 and 502-25,
5 Hawaii Revised Statutes, the department of land and natural
6 resources may establish a transaction fee for services rendered
7 by the bureau of conveyances pursuant to part II of chapter 501
8 and chapter 502, Hawaii Revised Statutes, including but not
9 limited to the costs relating to automation. The transaction
10 fee shall be set by rules adopted by the department of land and
11 natural resources pursuant to chapter 91, Hawaii Revised
12 Statutes. The transaction fees collected shall be deposited to
13 the credit of the bureau of conveyances special fund established
14 under section 502-8, Hawaii Revised Statutes.

15 SECTION 16. **Fee time share interests electronic**
16 **recordation; two-year pilot program; establishment.** (a) The
17 bureau of conveyances shall implement an integrated electronic
18 filing system for electronic recordation of fee time share
19 interests. The bureau of conveyances shall provide staff as
20 needed for the implementation of the program. The goals of the
21 program shall be to:



1 (1) Design and implement an integrated electronic filing
2 system for electronic recordation of fee time share
3 interests; and

4 (2) Identify necessary employee training, changes in
5 applicable administrative rules or procedures, and
6 other relevant information necessary for the pilot
7 program to be expanded to the entire regular system.

8 (b) The bureau of conveyances shall submit a written
9 report on the implementation of the integrated electronic filing
10 system for electronic recordation of fee time share interests to
11 the legislature no later than twenty days prior to the convening
12 of the 2010 regular session. The report shall include findings
13 and recommendations, costs expended to date, and the estimated
14 cost of implementation on a permanent basis for the entire
15 regular system.

16 SECTION 17. In codifying the new sections added by
17 section 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 18. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22



S.B. NO. 1352

1 SECTION 19. This Act shall take effect on July 1, 2009.

2

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Report Title:

Bureau of Conveyances; Electronic Recording; Fee Time Share Interest

Description:

Transfers fee time share interest from the land court system to the regular system; establishes a pilot program to implement electronic recording of fee time share interests.

