

LINDA LINGLE
GOVERNOR OF HAWAII



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

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**Testimony of
LAURA H. THIELEN
Chairperson**

**Before the House Committee on
FINANCE**

**Monday, April 6, 2009
3:00 PM
State Capitol, Conference Room 308**

**In consideration of
SENATE BILL 1352, SENATE DRAFT 2, HOUSE DRAFT 1
RELATING TO BUREAU OF CONVEYANCES**

Senate Bill 1352, Senate Draft 2, House Draft 1 proposes: 1) To remove time share interests from Land Court registration, 2) To authorize the Registrar of the Bureau of Conveyances (Bureau) to accept in the Regular System electronic instruments in lieu of original instruments with original signatures, 3) To authorize the Department of Land and Natural Resources (Department) to establish a transaction fee for services rendered relating to automation and, 4) To establish a pilot program for the to accept electronic filing of time share documents. The Department supports the intent of this bill, however has reservations with the timing of the pilot program.

First, Senate Bill 1352 is an attempt to ease the backlog in the recording and review process by removing time share interests from Land Court registration. Past and future increases in the development of time shares cause delays in the recording of these interests in Land Court and increase the labor required to maintain the records.

The Bureau is under tremendous pressure to keep current with the increase in timeshare recordings. The Land Court, established in 1903, was never intended for the purpose of maintaining multiple owners and interests on specific parcels. Administration of recorded instruments in Land Court was impacted with the passage of condominium laws. Time share recordation in Land Court further challenges the Bureau's staff and affects the integrity of the System.

Further, the Department proposes that this bill be amended to include the ability for landowners to opt out of Land Court. There is minimal exposure to the landowners who choose to opt out of Land Court due to the availability of title insurance that affords protection to landowners against defective title. Land Court was established in 1903, prior to the introduction of title insurance in 1957 in Hawaii.

LAURA H. THIELEN
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI
FIRST DEPUTY

KEN C. KAWAHARA
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Second, the Department strongly supports the authority to accept electronic documents. Electronic filing of documents would facilitate the recording process and improve delivery of information to the general public. This measure allows documents recorded in the Regular System to be filed in electronic format. The Department prefers to allow documents to be recorded electronically in both the Regular System and the Land Court System.

Presently, the Bureau and the Office of the Assistant Registrar accepts only original paper instruments with original signatures for recordation in the Regular System. This bill will allow the Bureau to accept electronic documents for recordation once the Department adopts rules specifying the format of acceptable electronic documents.

Third, this bill authorizes the Department to establish a transaction fee for services rendered relating to automation. Although the Department has the authority to change the fees charged for recording or other services through administrative rules without legislative approval, we welcome the establishment of a \$5 transaction fee for all recordings in the Bureau and the Office of the Assistant Registrar of the Land Court, to commence on July 1, 2009 and sunset on June 30, 2011. This fee will be deposited in the Bureau of Conveyances Special Fund and will be used to purchase hardware, system design and staff training relating to the automation of the Bureau.

Finally, this bill establishes a pilot program for the Bureau to accept electronic filing of time share documents. The Department plans on moving forward with accepting all documents via electronic filing. The Bureau began beta testing Uniform Commercial Code documents, with a goal to be on-line this spring. However, before the Bureau can be on-line with all documents, it needs to upgrade the system. The Bureau must purchase and install adequate computer hardware or systems to manage the full volume of documents filed at the Bureau through an on-line system.



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The Twenty-Fifth Legislature, State of Hawaii
Hawaii House of Representatives

Committee on Finance

Testimony by
Hawaii Government Employees Association – HGEA/AFSCME, Local 152
April 6, 2009

SB 1352, SD2, HD1 – RELATING TO BUREAU OF CONVEYANCES

SB 1352, SD2, HD1 will transfer fee time share interest from the land court system to the regular system, establish a pilot program to implement electronic recording of fee time share interests, establish a working group to resolve issues and make recommendations regarding the recovery of lost revenue, and empowers the department to charge a \$5 transaction fee for deregistration of a fee time share interest.

We understand and can fully appreciate the intended purpose of this measure, which is to assist with the elimination of the backlog in the land court system; however, we have some serious concerns about the impact of this legislation.

First, it is our understanding that the movement of fee time share recordings to the regular system from the land courts system will not help alleviate the current backlog in the land court system. Nor will it actually accelerate the time in which a document is recorded.


Second, we believe this transfer of fee time share to the regular system results in lost revenue (\$25 certificate of title fee) at a time the state cannot afford it. In these economic times, we urge the department to preserve opportunities to generate revenue and look to make those processes more efficient.

Regarding electronic recording, we agree that technological innovation and automation can assist government in becoming more efficient. The use of electronic recording has the potential to increase the efficiency of the current operations in the Bureau of Conveyances. However, if the appropriate infrastructure and staffing levels are not in place to successfully implement the changes made, service to the public will suffer, efficiency of operations may increase instead of decrease, and the impact on staff morale can be devastating.

We ask that the department ensure that the appropriate infrastructure, staffing, and training are in place prior to implementing any pilot program to make changes to improve the services provided by the Bureau of Conveyances through technology and automation.

Thank you for the opportunity to comment on SB 1352, SD2, HD1.

Respectfully submitted,


for Nora A. Nomura
Deputy Executive Director



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REALTORS®**
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April 5, 2009

The Honorable Marcus R. Oshiro, Chair

House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: S.B. 1352, S.D. 2, H.D. 1 Relating to Bureau of Conveyances

HEARING DATE: Monday, April 6, 2009 at 3:00 p.m.

Aloha Chair Oshiro and Members of the Committee:

I am Myoung Oh, here to testify on behalf of the Hawai'i Association of REALTORS® (HAR) and its 9,600 members. HAR **supports** S.B. 1352, S.D. 2, H.D. 1, which transfers fee time interest from the Land Court system to the Regular system, creates an employer-employee working group, establishes a pilot program to implement electronic recording of fee time share interests, and establishes a fee for deregistration of a fee time share interest.

The Land Court was originally designed to accommodate individually owned properties. Timeshares, however, are comprised of multiple fee owners for each property. This, together with the development of new timeshare condominiums and converted condominium hotels, has created a significant backlog in the Land Court system.

HAR believes that the transfer of fee simple time share interests from the Land Court system to Regular system and acceptance of electronic signatures will make the Bureau of Conveyance more efficient, and ultimately, benefit the real estate industry and consumers.

HAR further notes that it generally supports S.B. 1352 S.D. 2, H.D. 1, but takes no position on the authorization for the Bureau of Conveyances to charge additional fees for deregistration of timeshare interests.

Mahalo for the opportunity to testify.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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MEMORANDUM

TO: Representative Marcus R. Oshiro
Chair, Committee on Finance

FROM: Mihoko Ito

DATE: April 5, 2009

RE: **S.B. No. 1352, S.D.2, H.D. 1 – Relating to Bureau of Conveyances
Hearing: Monday, April 6, 2009 at 3:00 p.m., Agenda #2**

Dear Chair Oshiro and Members of the Committee:

I am Mihoko Ito, testifying on behalf of Wyndham Worldwide. Wyndham Worldwide offers individual consumers and business-to-business customers a broad suite of hospitality products and services across various accommodation alternatives and price ranges through its portfolio of world-renowned brands. Wyndham Worldwide has substantial interests in Hawaii that include Wyndham Vacation Ownership, with its new resort at Waikiki Beach Walk.

We support S.B. 1352, S.D.2, H.D.1, which removes fee simple time share transactions from the Land Court System to the Regular System, establishes a working group to facilitate implementation, authorizes a recording fee for Bureau of conveyance transactions and establishes a pilot program to implement electronic recording of fee simple time share interests.

The removal of fee simple time share transactions from the Land Court System would eliminate the need to issue a certificate of title for each fee simple time share unit for each owner. The number of owners for a fee simple time share ranges from hundreds to thousands, and each owner has a percentage interest in the time share property. S.B. 1352, S.D.2, H.D. 1 will ultimately streamline the registration process for fee simple timeshare interests and, for this reason, we ask for your favorable support.

Thank you very much for the opportunity to submit testimony

**Committee on Finance
Hearing
Monday, April 6, 2009, 3:00 p.m.
Conference Room 308**

Representative Marcus Oshiro, Chair



Testimony on SB1352, SD2, HD1 Relating to Bureau of Conveyances

Dear Chair Oshiro and Members of the Committee:

My testimony is in SUPPORT of SB1352, SD2, HD1. My name is Lynn McCrory and I am the President of PAHIO Development, Inc. We are a locally owned and operated time share development company on the island of Kauai.

This bill will remove from the Land Court the recording of all ownership of timeshare intervals, their governing document recordation, and any other documents relating to the title. The Bureau of Conveyance also records all timeshare intervals, governing documents, and all other documents relating to the title. These are duplicate recordings that result in an incredible amount of documents being processed through the two land systems. The bill also allows a timeshare project not to register with Land Court and allows existing time share projects to deregister from Land Court. This will stop any further filing of documents into the two land systems. The bill allows for a pilot program for filing utilizing an electronic signature. This will also facilitate the time it takes for the recordation of documents. These three changes will assist to alleviate any backlog that exists within the Land Court and allow a timelier recordation of all other real estate and timeshare documents.

The additions in SD1 and 2, and HD1 to establish an employer-employee working group, charge a transaction fee, allow funding for the purchase of new technology equipment, provide future effective dates, and increase the Special Fund ceiling will only work to support the changes in the bill. I humbly ask for your consideration to SUPPORT SB1352, SD2, HD1. Mahalo!

Me ke aloha pumehana
With warm aloha,

PAHIO DEVELOPMENT, INC.

A handwritten signature in black ink, appearing to read "Lynn P. McCrory".

Lynn P. McCrory, RRP
President

C: PMCI



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

April 6, 2009

TO: House Finance Committee
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice-Chair

FROM: Ed Thompson
ARDA-Hawaii

DATE: Monday, April 6, 2009
Conference Room 308
3:00 p.m.

RE: SB 1352, SD2, HD1, RELATING TO BUREAU OF CONVEYANCES

Chair Oshiro and Members of the Committee:

ARDA-Hawaii is the local chapter of the national timeshare trade association. Hawaii's timeshare industry currently accounts for ten percent of the State's lodging inventory with 7,700 timeshare units and more planned in the future.

ARDA-Hawaii supports SB 1352, SD2, HD1, which would transfer fee simple time share interest from the land court system to the regular system and establishes a working group to resolve implementation issues. The bill also establishes a pilot program to implement electronic recording of fee time share interests and allows the Bureau of Conveyances to charge a fee for deregistration of a fee time share interest.

Currently every timeshare owner is issued a certificate of title which amounts to thousands of individual owners. This measure will help to streamline the registration process while maintaining adequate protection of ownership.

Thank you very much for the opportunity to offer testimony in support of this measure.

STARWOOD

VACATION OWNERSHIP

9002 San Marco Court
Orlando, Florida 32819
(407) 418-7271

April 6, 2009

To: Honorable Marcus R. Oshiro, Chair
Honorable Marilyn B. Lee, Vice Chair
House Committee on Finance

Fr: Robin Suarez, Vice President & Associate General Counsel for Starwood
Vacation Ownership

Re: **SB 1352, SD2 HD1 - Relating to Bureau of Conveyances - SUPPORT**
FIN #2 - Hawaii State Capitol, Conference Room 308, 3:00 p.m.

Aloha Chair Oshiro, Vice Chair Lee, and Committee members:

My name is Robin Suarez, Vice President & Associate General Counsel for Starwood Vacation Ownership, ("SVO"). Thank you for the opportunity to provide comment in support of SB 1352, SD2 HD 1, Relating to the Bureau of Conveyances.

The original version of bill proposes to transfer fee simple time share interests from the Land Court System to the regular system and to establish a pilot program to implement electronic recording of fee simple time share interests. Currently every timeshare owner is issued a certificate of title which amounts to thousands of individual owners. This measure will help to streamline the registration process while maintaining adequate protection of ownership.

Time share projects that are currently required to go through the Land Court Registration System are subjected to additional costs and time delays for the recordation of each timeshare interest. The Land Court places limits on the number of documents it will receive from individual developers on a daily basis. Due to the volume of documents generated by timeshare sales, this limitation creates delays and a backlog in recording timeshare sales. Eliminating the tedious process of issuing a certificate of title for each fee simple timeshare interest, which can range from hundreds to thousands of individual timeshare interests, will provide welcome relief to the Land Court's backlog if this process is allowed to be taken up entirely by the Bureau of Conveyances Regular System.

The original version of SB 1352 will help to streamline the recording and tracking of time share interests without compromising consumer protection and it eliminates a costly burden on the Hawai'i Land Court Recorder's office. The SD1 changes unnecessarily delay the implementation of this cost-savings and time-savings measure.

Timeshare projects with their high and consistent rates of occupancy and customer satisfaction are a vital part of Hawai'i's tourism industry. In addition to providing traditional resort operations jobs similar to hotel projects, timeshare projects add high skilled and high compensated sales and marketing jobs. As such, timeshare projects represent a valuable and diverse component of Hawai'i's important tourism market.

For these reasons, we respectfully request your consideration of reinstating the original language of this bill and for your favorable support of SB 1352, SD2 HD1.

As always, I thank you for the opportunity to share our views on this matter.

March 25, 2009

Regarding: SB 1352 SD1

To the Finance Committee: Marcus R Oshiro, Chairman
Marilyn B. Lee, Vice Chairman
Henry J. C. Aquino, Karen Leinani Awana, Tom Brower,
Isaac W. Choy, Denny Coffman, Sharon E. Har,
Chris Lee, Scott Y. Nishimoto, Roland D. Sagum, III,
James Kunane Tokioka, Jessica Wooley, Kyle Yamashita,
Kymberly Marcos Pine and Gene Ward

The passage of said SB 1352 SD1 would mean a lost of revenue for the State of Hawaii in this already bleak economic times. For every Timeshare Fee simple recording a fee of \$25.00 is lost. That calculates into the lost of thousands of Land Court documents that recorded every year, Please refer to Hawaii Revised Statutes 501 and Hawaii Administrative Rules Title 13 Department of Land and Natural Resources Chapter 16 Rules relating to Conveyances. The State of Hawaii guaranteed title to the registered owners of Land Court property. Consider the amount of fraud that could prevail when such conveyance is not guaranteed or insured by a title insurance policy.

My question to you is where is the accountability does the State of Hawaii have to its people or others trying to own their share of our paradise.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'K. Achiu', with a long horizontal flourish extending to the right.

Karla L. Achiu

FINTestimony

From: mailinglist@capitol.hawaii.gov
sent: Sunday, April 05, 2009 4:25 PM
to: FINTestimony
Cc: zelei7ke@yahoo.com
Subject: Testimony for SB1352 on 4/6/2009 3:00:00 PM

Testimony for FIN 4/6/2009 3:00:00 PM SB1352

Conference room: 308
Testifier position: oppose
Testifier will be present: Yes
Submitted by: zelei abordo
Organization: Individual
Address: 1727 S Beretania St #2A Honolulu, HI
Phone: 808-741-5258
E-mail: zelei7ke@yahoo.com
Submitted on: 4/5/2009

Comments:

Dear Chair Oshiro & Vice Chair Lee,

I have submitted testimony to all the committees that have heard this bill, in opposition. I have refuted testimonies made by other testifiers who claim that this bill will streamline and allow them to record timeshare documents at a faster rate.

There is just one question that I would ask for an answer to by your committee if you vote in favor of this bill and follow all of the previous committees that have passed this bill along. "How do legislators justify passing a bill that will result in a loss of revenue in the amount of a million plus dollars for a state agency"? I hope this question doesn't seem arrogant to you but its something that I know everyone at the Bureau would be curious in understanding. Even though the Bureau will be allowed to charge an additional \$5.00 it would by no means make up for the loss of revenue that this bill will create. Just to reiterate that timeshares are a luxury and not a necessity.

Thank you so much for the opportunity to send in what I call my last gung ho attempt to STOP THIS BILL. Thank you for the opportunity to submit my testimony to you and your committee.

Sincerely,
Zelei Abordo