

LINDA LINGLE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committee on  
JUDICIARY**

**Tuesday, March 24, 2009  
2:00 PM  
State Capitol, Conference Room 325**

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

Senate Bill 1352, Senate Draft 2 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.



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

March 24, 2009

**TO:** House Judiciary Committee  
Representative Jon Riki Karamatsu, Chair  
Representative Ken Ito, Vice-Chair

**FROM:** Ed Thompson  
ARDA-Hawaii

**DATE:** Tuesday, March 24, 2009  
Conference Room 325  
2:00 p.m.

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

Chair Karamatsu 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, 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.

Committee on Judiciary  
Hearing  
Tuesday, March 24, 2009, 2:00 p.m.  
Conference Room 325



Representative Jon Riki Karamatsu, Chair

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

Dear Chair Karamatsu and Members of the Committee:

My testimony is in SUPPORT of SB1352, SD2. 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 to establish an employer-employee working group, charge a transaction fee, allow funding for the purchase of new technology equipment, and providing future effective dates will only work to support the changes in the bill. I humbly ask for your consideration to SUPPORT SB1352. Mahalo!

Me ke aloha pumehana  
With warm aloha,

PAHIO DEVELOPMENT, INC.

A handwritten signature in black ink, appearing to read "Lynn P. McCrory", written in a cursive style.

Lynn P. McCrory, RRP  
President

C: PMCI



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

March 24, 2009

To: Honorable Jon Riki Karamatsu, Chair  
Honorable Ken Ito, Vice Chair  
House Committee on Judiciary

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

**Re: SB 1352, SD2 - Relating to Bureau of Conveyances - SUPPORT**  
Hawaii State Capitol, Conference Room 325, 2:00 p.m.

Aloha Chair Karamatsu, Vice Chair Ito, 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, 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.

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

**karamatsu3-Leanne**

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**From:** Denise Kaehu [DKaehu@HETInc.com]  
**Sent:** Monday, March 23, 2009 11:53 AM  
**To:** JUDtestimony  
**Subject:** SB1352 SD2 2009 HLTATEST Elec recording.doc 3-23-09.doc

SB1352, SD2 RELATING TO BUREAU OF CONVEYANCES  
TESTIMONY ATTACHED

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**HAWAII LAND TITLE ASSOCIATION**  
**C/O 1100 Alakea Street, 5<sup>th</sup> floor**  
**Honolulu, Hawaii 96813**

March 23, 2009

**TO:** House of Representatives  
Committee on Judiciary  
Rep. Jon Riki Karamatsu, Chair  
Rep. Ken Ito, Vice Chair

**DATE:** Tuesday, March 24, 2009  
Conference Room 325  
2:00 p.m.

**Testifier:** Hawaii Land Title Association  
Denise M. Kaehu, President

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

Chair Karamatsu and Vice Chair Ito and Members of the Committees:

The Hawaii Land Title Association supports **SB 1352, SD2, RELATING TO BUREAU OF CONVEYANCES**.

We strongly support the current amended Bill. However, taking into consideration the interest of all of the consumers we ask that the working group also include members of the Hawaii Land Title Association. We need to be aware of and offer any contributions of information from our industry's perspective. Our Association has been active in the recent past with Department of Land and Natural Resources Chair Laura Thielen's Working Group and would like to continue this relationship so that we may help provide guidance and commentary to assist in a smooth transitional period for both the Bureau of Conveyances and the general public.

It is our Association's strong recommendation that SB 1352, SD2 be passed.

Respectfully submitted,

Denise M. Kaehu  
President  
Hawaii Land Title Association  
C/o 1100 Alakea Street, 5<sup>th</sup> floor  
Honolulu, Hawaii 96813



GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:  
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**MEMORANDUM**

**TO:** Representative Jon Riki Karamatsu  
Chair, Committee on Judiciary

**FROM:** Mihoko Ito

**DATE:** March 23, 2009

**RE:** **S.B. No. 1352, S.D.2 – Relating to Bureau of Conveyances  
Hearing Tuesday, March 24, 2009 at 2:00 p.m.**

Dear Chair Karamatsu 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, which removes fee simple time share transactions from the Land Court System, establishes an employer-employee working group to facilitate the changes to the system, authorizes a recording fee for Bureau of conveyance transactions 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 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



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March 21, 2009

**The Honorable Jon Riki Karamatsu, Chair**

House Committee on Judiciary  
State Capitol, Room 302  
Honolulu, Hawaii 96813

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

**HEARING DATE: Tuesday, March 24, 2009 at 2:00 p.m.**

Aloha Karamatsu 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, 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, and

The Land Court was originally designed to accommodate individually owned properties. Timeshare, 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, but takes no position at this time on the authorization for the Bureau of Conveyances to charge additional fees for deregistration.

Mahalo for the opportunity to testify.



## HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

**RANDY PERREIRA**  
*Executive Director*  
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**NORA A. NOMURA**  
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The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Judiciary

Testimony by  
Hawaii Government Employees Association  
March 24, 2009

S.B. 1352, S.D. 2 – RELATING TO  
BUREAU OF CONVEYANCES

S.B. 1352, S.D. 2 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 the purpose of this measure, which is to ease the backlog in the land court system; however, we have some serious concerns.

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 will result in lost revenue at a time the state cannot afford it. We appreciate the recognition of the importance of the potential loss in revenue as a result of some of these changes. In these economic times, we urge the department to preserve opportunities to generate revenue and look to make those processes more efficient. We would certainly agree that the department should look at increasing transaction fees at the Bureau of Conveyances.

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.

Hawaii State House of Representatives  
Testimony re: S.B. 1352, S.D. 2 – Relating to Bureau of Conveyances  
March 24, 2009  
Page 2

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 S.B. 1352, S.D. 2.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nora A. Nomura", written in a cursive style.

Nora A. Nomura  
Deputy Executive Director

## karamatsu3-Leanne

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 22, 2009 6:06 PM  
**To:** JUDtestimony  
**Cc:** zelei7ke@yahoo.com  
**Subject:** Testimony for SB1352 on 3/24/2009 2:00:00 PM

Testimony for JUD 3/24/2009 2:00:00 PM SB1352

Conference room: 325  
Testifier position: oppose  
Testifier will be present: Yes  
Submitted by: zelei abordo  
Organization: Individual  
Address: 1727 S Beretania St Apt 2A Honolulu, HI  
Phone: 808-741-5258  
E-mail: [zelei7ke@yahoo.com](mailto:zelei7ke@yahoo.com)  
Submitted on: 3/22/2009

Comments:

March 22, 2009

Committee on Judiciary

Dear Representative Karamatsu,

There were 35 employees at the Bureau of Conveyances that turned in testimony opposing deregistration of the timeshares. I don't know what happened to their testimonies and why it wasn't posted.

Personally, I look forward to upgrading our infrastructure to accommodate electronic filing but am very concerned about the loss of revenue ranging anywhere from \$500,000 to \$1,000,000.00 by deregistering the time shares.

Allowing the bureau to charge \$5.00 to deregister the timeshares cannot compare to the loss of revenue that the legislators are dealing the Bureau.

People that deal with the Bureau who think they know what we do have no idea of what we do. I know this for a fact. I've worked for T.I. of Hawaii, Island Title and First Hawaii Title from 1988 thru 2000. Until I started working at the Bureau in 2000 I did not know what they did. I thought I knew what they did because I went there everyday for 12 years but now I know I had no clue. Even though Legislators held a Joint Committee Investigation they still don't know what we do and they are getting their information from people who don't know what we do.

Everyone is saying that the timeshares are the reason for the backlog in the Land Court Review Section. This isn't true. Operational mismanagement created the backlog in the Land Court Review Section. The previous land court branch chief had the review section working in land court receiving for 2 1/2 - 3 years. During this period review was unable to do their own work. Before this practice was implemented the land court review section was current and there were no complaints from anyone regarding the timeshares and we were recording a lot of them at the time.

Everyone believes and have testified that deregistering timeshares will allow them to record more and faster. This isn't true. It doesn't matter what system you record in the same rules apply to both systems. If you want to record 25 or more docs you have to make arrangements with the supervisor for land court and/or regular and they will pick a date for you to record. This is because the section has to pre check the documents being submitted for recording. There are many documents that come in that are short on fees or lacking signatures and its the receivers responsibility to make sure all of these things are checked. So to say that you will be able to record more documents and faster isn't true.

If legislators are truly looking to do the right thing for the Bureau then maybe they could take advice from those who work there.

We at the Bureau who will be affected dramatically by this decision hope that legislators will end up doing the right thing. Thank you for the opportunity to testify.

Sincerely,  
Zelei Abordo