

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 recordation 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

INTRODUCED BY:

Jim

Michelle D. Keener

Ron Hum

Randy K. Bell

Erzanne Chun Cleveland

Arvid Y. Jørgensen

Will Egan



Report Title:

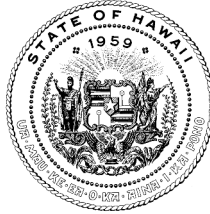
Bureau of Conveyances; Electronic Recording; Fee Time Share Interest

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.



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 Senate Committees on
COMMERCE AND CONSUMER PROTECTION
and
ECONOMIC DEVELOPMENT AND TECHNOLOGY**

**Wednesday, February 18, 2009
10:00 AM
State Capitol, Conference Room 229**

**In consideration of
Senate Bill 1352
RELATING TO BUREAU OF CONVEYANCES**

Senate Bill 1352 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 pilot program which is unfunded.

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. The Department has the authority to change the fees charged for recording or other services through administrative rules without legislative approval. The Department respectfully requests that this committee amend this section to authorize the Bureau to establish 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. The Department has requested an increase of \$650,000 to the ceiling of the Bureau of Conveyances Special Fund to support purchase of hardware, system design and staff training for Fiscal Years 2010 and 2011, and the Department respectfully requests the Legislatures' support of that action so the Bureau move forward with implementing full electronic filing.

The Department welcomes the opportunity to work with this Committee to come up with draft language to amend the bill to address the concerns identified in our testimony to make this bill more workable.

For this Committee's consideration, the Administration has submitted two proposals, Senate Bill 955 (RELATING TO FILINGS IN THE BUREAU OF CONVEYANCES) and Senate Bill 957 (RELATING TO THE LAND COURT SYSTEM) that allow the Bureau to accept electronic filing in both the Regular System and the Land Court System and remove time share interests from Land Court registration.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii Hawaii State Senate

Committee on Commerce and Consumer Protection
Committee on Economic Development and Technology

Testimony by
Hawaii Government Employees Association
February 18, 2009

S.B. 1352 – RELATING TO BUREAU OF CONVEYANCES

S.B. 1352 will transfer fee time share interest from the land court system to the regular system and establish a pilot program to implement electronic recording of fee time share interests.

The Hawaii Government Employees Association provides the following comments.

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, work backlogs 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 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.

Respectfully submitted,


for Nora A. Nomura
Deputy Executive Director



HAWAII BANKERS ASSOCIATION

1000 BISHOP ST., SUITE 301B • HONOLULU, HAWAII 96813-4203
PHONE: (808) 524-5161 • FAX: (808) 521-4120

Presentation to the Senate Committee on Commerce and Consumer Protection
and Committee on Economic Development and Technology
Wednesday, February 18, 2009, at 10:00 AM

Testimony for SB 1352 Relating to Bureau of Conveyances

TO: The Honorable Roz Baker, Chair
The Honorable David Ige, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection

TO: The Honorable Carol Fukunaga, Chair
The Honorable Rosalyn H. Baker, Vice Chair
Members of the Senate Committee on Economic Development and Technology

My name is Neal Okabayashi and I testify for the Hawaii Bankers Association. We support the concept of this bill because we favor improving the efficiency of the recordation system in Hawaii, whether regular system or land court. By removing time share interests from the land court, we will exponentially improve the efficiency of the land court by removing the need to note separately the interest of a person with a one week interest. For example, if each unit of a 400 unit building each has 52 owners with one week each, that is the equivalent of 20,800 units which the land court must process. By moving those interests to the regular system, we will reduce the backlog since the land court will not have to cumbersomely note the interest of each of the 20,800 owners as in my example, and thus improve speed and efficiency.

We also support the notion of electronic recordation since that too will improve efficiency and speed of recordation.

Thank you for this opportunity to testify, and I would be happy to answer any questions you may have.

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

February 17, 2009

TO: Senate Commerce and Consumer Protection Committee
Sen. Rosalyn H. Baker, Chair
Sen. David Y. Ige, Vice-Chair

Senate Economic Development and Technology Committee
Sen. Carol Fukunaga, Chair
Sen. Rosalyn H. Baker, Vice-Chair

DATE: Wednesday, February 18, 2009
Conference Room 229
10:00 a.m.

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

RE: SB 1352, RELATING TO BUREAU OF CONVEYANCES

Chairs Baker and Fukunaga and Members of the Committees:

The Hawaii Land Title Association and the Hawaii Escrow Association strongly recommends that the Committee pass **SB 1352** which will permit the Registrar of the Bureau of Conveyances to allow the transfer of fee time share interests from the land court system to the regular system and establishes a pilot program to implement electronic recording of fee simple time share interests. Our Association has been very active with DLNR Chairwoman Laura Thielen's Bureau of Conveyances Special Working Group to automate the Bureau in 2008. The Hawaii Land Title Association represents the eight Hawaii title companies which account for over 90% of the documents submitted for recordation at the Bureau.

In respect to deregistration of time share from Land Court, Time Share Developer documents are packaged and title companies are only allowed to submit document packages of 1-25 documents for pre-check 2 days prior to recordation, 26-50 documents 3 days hours prior to recordation, 50-100 4 days, 100+ special arrangements must be made with the Bureau to schedule for recording. Currently the Bureau can only process these daily amounts due to their inability to process large batches of documents. This causes problems for the developers who have many pending sales and interest accruing on construction loans and/or acquisition loans along with a delay in ownership for the consumers who would like to be able to immediately book and plan their Hawaii vacations.

As a practical matter the Land Court System was not created nor designed to be able to handle:

1. multiple ownership conveyances in bulk
2. Fractional interest conveyances
3. Points based conveyances
4. Lease to fee conversions of time share intervals
5. Issuance of Transfer Certificates of Title to fractional/undivided ownership interests

The Timeshare consumers and developers are faced with strict compliance issues in regards to recordation acceptance of Land Court Documents which have unique criteria that must be complied with throughout the documents. The Land Court creates a burden to the consumer when they wish to convey out of title to another person(s) by putting the responsibility of notification to the Land Court of a divorce, death or marriage by way of a legal conforming document that must be put forth before the Land Court Judge for approval prior to a conveyance of title. The average timeshare purchaser does not reside in the State of Hawaii and is therefore unfamiliar with the documentation requirements of our Land Court and our state. This burden is also passed onto the Staff of the Bureau of Conveyances upon receipt of documents by mail/delivery that inevitably will be rejected and returned to the consumer/developer for non-conformance issues due to the lack of available or standardized conveyance forms in the State of Hawaii. This is a waste of consumer time and also that of the Bureau's staff.

With the invention of the points based system of timeshare sales, it has created a literal "nightmare" for the Bureau's staff. The number of Transfer Certificates of Title to be issued per new conveyance has literally increased from one per unit sale to a multitude of 52 + on a per unit basis. Each new Transfer Certificate of Title must also recite any and all encumbrances in addition to the logging of the conveyance document information. Land Court was never set up to be able to keep an accurate and correct accounting of timeshare inventory which is necessary to be able to ascertain whether or not a unit or a whole project has unsold inventory. This places the burden of a monetary liability of keeping a current inventory status on each project in Land Court. Currently the Land Court has only cleared their backlog of Transfer Certificates of Title up to April 2007. This means that all conveyances to date are not posted. It is very easy for uneducated staff to incorrectly post, transpose or incorrectly keep track of fractional interest or points based sales. Multiple conveyances have been the main contributor for thousands of posting entries for the BOC staff along with antiquated computer equipment/software, therefore the current and perpetual backlog situation.

An additional burden is the conveyance back from an owner back to a developer in Land Court. You cannot return inventory to a developer back to the originating Transfer Certificate of Title per statute. In a deed back or foreclosure situation when the conveyance is recorded the points are not transferred back to the original Certificate, a new Transfer Certificate of Title is created in the Developer's name. Each and every time a new certificate is created and it is from each of these that eventually you will have to draw points out from. Again, another inventory nightmare for both the developer and the Bureau of Conveyances keeping track of multiple certificates with the same name on them.

We would like to ask for an amendment to HB1830 to allow electronic recording for all recording systems or at the very least a system that would allow all regular system documents to be electronically recorded. The software that will be designed would have to be created for recording as

a whole not for a particular document type. Land court is more complicated to address therefore a new module after beta testing is complete with regular system makes more sense to design a software package that will be fiscally beneficial and improve productivity in a graduated time frame.

In order for the State of Hawaii to automate the recording process, we need the help of the Legislature to enact or revise current statute requirements to allow various types of electronic signatures. Currently, our State does not allow this. If we do not act this year, we will fall behind in our original target date to design and implement a new automated software system for the Bureau. This new software will enhance productivity, provide new security features, increase the overall efficiency of the staff, be able to provide on-line cashiering of all funds received and provide much needed statistical reports to the management staff of the Bureau and ultimately benefit the people of Hawaii. This software system must be inclusive of the most current and up to date modules to be able to allow for state of the art technology for all consumers worldwide. An integral part of the software is the acceptance of various electronic signature formats.

It would be in the best interest of the State of Hawaii to cut down on overtime and unnecessary liability and will also benefit the consumer with a more productive and accurate system.

We urge you to please consider all the positive benefits to the real estate industry, associated industries and the consumers worldwide.

Respectfully submitted,

Denise M. Kaehu
President
Hawaii Escrow Association
C/o 1100 Alakea Street, 5th floor
Honolulu, Hawaii 96813

February 17, 2009

The Honorable Rosalyn H. Baker, Chair

Senate Committee on Commerce & Consumer Protection

The Honorable Carol Fukunaga, Chair

Senate Committee on Economic Development & Technology

State Capitol, Room 229

Honolulu, Hawaii 96813

RE: S.B. 1352 Relating to Bureau of Conveyances

Hearing date: Wednesday, February 18, 2009 @ 10:00 a.m.

Aloha Chair Baker, Chair Fukunaga and Members of the Joint Committees:

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** which transfers fee time share interest from the Land Court system to the Regular system and establishes a pilot program to implement electronic recording of fee time share interests.

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 the Regular System and acceptance of electronic signatures will make the Bureau of Conveyance more efficient, and ultimately, benefit the real estate industry and consumers.

Mahalo for the opportunity to testify.



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

February 18, 2009

TO: Senate Commerce and Consumer Protection Committee
Sen. Rosalyn H. Baker, Chair
Sen. David Y. Ige, Vice-Chair

Senate Economic Development and Technology Committee
Sen. Carol Fukunaga, Chair
Sen. Rosalyn H. Baker, Vice-Chair

FROM: Ed Thompson
ARDA-Hawaii

DATE: Wednesday, February 18, 2009
Conference Room 229
10:00 a.m.

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

Chairs Baker and Fukunaga and Members of the Committees:

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 which would transfer fee simple time share interest from the land court system to the regular system and 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.

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

**SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION**

AND

**SENATE COMMITTEE ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY**

February 18, 2009

SB 1352 Relating to Bureau of Conveyances

Chair Baker, Chair Fukunaga, members of the Senate Committee on Commerce and Consumer Protection and members of the Senate Committee on Economic Development and Technology, I am Rick Tsujimura, representing Marriott Vacation Club International, Inc. (Marriott). Marriott supports Senate Bill 1352 Relating to Bureau of Conveyances.

If timeshares are withdrawn from Land Court and recorded in Regular system only, it would alleviate the backlog currently encountered in recording time share interests.

For this reason we respectfully request that you pass Senate Bill 1352. Thank you for the opportunity to present this testimony.


Hilton
Grand Vacations®
Asia Pacific Region

February 18, 2009

TO: Senate Commerce and Consumer Protection Committee
Sen. Rosalyn H. Baker, Chair
Sen. David Y. Ige, Vice-Chair

Senate Economic Development and Technology Committee
Sen. Carol Fukunaga, Chair
Sen. Rosalyn H. Baker, Vice-Chair

FROM: Bryan Klum, Executive Vice President
Hilton Grand Vacations



DATE: Wednesday, February 18, 2009
Conference Room 229
10:00 a.m.

RE: SB 1352, RELATING TO BUREAU OF CONVEYANCES

Chairs Baker and Fukunaga and Members of the Committees:

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.

Hilton Grand Vacations supports SB 1352 which would transfer fee simple time share interest from the land court system to the regular system and 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.

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

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

GOVERNMENT RELATIONS TEAM:
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MEMORANDUM

TO: Senator Rosalyn H. Baker
Chair, Committee on Commerce and Consumer Protection
Senator Carol Fukunaga
Chair, Committee on Economic Development and Technology

FROM: Mihoko Ito

DATE: February 17, 2009

RE: **S.B. No. 1352 – Relating to Bureau of Conveyances
Hearing on Wednesday at 10:00 a.m. in Room 229**

Dear Chairs Baker and Fukunaga and Members of the Joint Committees:

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, which removes fee simple time share transactions from the Land Court System, provides the option for all landowners to transfer their property from the Land Court System to the Regular System of the Bureau of Conveyances, 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 would 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 Commerce and Consumer Protection
Committee on Economic Development and Technology
Hearing
Wednesday, February 18, 2009, 10:00 a.m.
Conference Room 229

Senator Rosalyn Baker, Chair
Senator Carol Fukunaga, Chair



Testimony on SB1352, Relating to Bureau of Conveyances

Dear Chairs Baker, Fukunaga and Members of the Committee:

My testimony is in SUPPORT of SB1352. 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.

I humbly ask for your consideration to SUPPORT SB1352. Mahalo!

Me ke aloha pumehana
With warm aloha,

PAHIO DEVELOPMENT, INC.

A handwritten signature in dark ink, appearing to read "Lynn P. McCrory". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Lynn P. McCrory, RRP
President

C: PMCI

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 16, 2009 12:43 PM
To: CPN Testimony
Cc: drgmaui@hawaii.rr.com
Subject: Testimony for SB1352 on 2/18/2009 10:00:00 AM

Testimony for CPN/EDT 2/18/2009 10:00:00 AM SB1352

Conference room: 229
Testifier position: support
Testifier will be present: No
Submitted by: Don Gerbig
Organization: Individual
Address: Lahaina, HI
Phone:
E-mail: drgmaui@hawaii.rr.com
Submitted on: 2/16/2009

Comments:
Testimony Test