

S.B. NO. 955

JAN 26 2009

A BILL FOR AN ACT

RELATING TO FILINGS IN THE BUREAU OF CONVEYANCES.

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

1 SECTION 1. Section 501-20, Hawaii Revised Statutes, is
2 amended as follows:

3 (1) By adding a new definition to be appropriately inserted
4 and to read as follows:

5 "Endorsement" means a written or electronic notation that
6 is made upon, attached to, or logically associated with an
7 instrument."

8 (2) By amending the definitions of "record", "recorded",
9 or "recording" and "signature" to read as follows:

10 "Record", "recorded", or "recording" means [to make an
11 entire literal copy of all instruments required to be recorded.]
12 the act of entering into the public records the written
13 instruments affecting title to real property.

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

1 SECTION 2. Section 501-107, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§501-107 Entry record; duplicates and certified copies.**

4 The assistant registrar shall keep a record in which shall be
5 entered all deeds and other voluntary instruments, and all
6 copies of writs or other process filed or recorded with the
7 assistant registrar relating to registered land. The assistant
8 registrar shall note in the record the date of reception of all
9 instruments. The instruments shall be stamped [~~with~~], have
10 attached to, or have logically associated with the instrument
11 the date, hour, and minute of reception and shall be regarded as
12 registered from the date and time so noted, and the memorandum
13 of each instrument when made on the certificate of title to
14 which it refers shall bear the same date.

15 Every deed or other instrument, whether voluntary or
16 involuntary, so filed or recorded with the registrar or
17 assistant registrar shall be numbered and indexed, and indorsed
18 with a reference to the proper certificate of title. All
19 records relating to registered land in the office of the
20 registrar or of the assistant registrar shall be open to the
21 public in the same manner as probate records are open, subject
22 to such reasonable regulations as the registrar, under the

1 direction of the court, may make.

2 Certified copies of all instruments filed or recorded and
3 registered may also be obtained at any time on payment of the
4 assistant registrar's fees."

5 SECTION 3. Section 501-108, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§501-108 Conveyance of fee; procedure.** (a) An owner
8 desiring to convey in fee registered land or any portion thereof
9 shall execute a deed of conveyance, which the grantor or the
10 grantee may present to the assistant registrar in the bureau of
11 conveyances; provided that no deed, mortgage, lease, or other
12 voluntary instrument shall be accepted by the assistant
13 registrar for registration unless a reference to the number of
14 the certificate of title of the land affected by such instrument
15 is incorporated in the body of the instrument tendered for
16 registration. If the certificate reference in the instrument is
17 not current, an endorsement of the current certificate of title
18 shall be required.

19 The assistant registrar shall note upon, attach to, or
20 logically associate with all instruments filed or recorded
21 concurrently with the recorded instrument the document number
22 and the certificate of title number [~~in the spaces provided~~

1 ~~therefor~~] wherever required.

2 The assistant registrar shall thereupon, in accordance with
3 the rules and instructions of the court, make out in the
4 registration book a new certificate of title to the grantee.
5 The assistant registrar shall note upon the original certificate
6 the date of transfer, and a reference by number to the last
7 prior certificate. The original certificate shall be stamped
8 "canceled". The deed of conveyance shall be filed or recorded
9 and endorsed with, have attached to, or have logically
10 associated with the number and place of registration of the
11 certificate of title of the land conveyed.

12 (b) On all instruments to be filed or recorded, the top
13 three and one-half inches of space of the first page shall be
14 reserved for recording information for the assistant registrar
15 on the left half of that space, and for the registrar of
16 conveyances on the right half of that space. The following one
17 inch of space shall be reserved for information showing to whom
18 the document should be returned. In addition, the first page
19 shall identify and include, if possible, all names of the
20 grantors and all names and addresses of the grantees, the type
21 of document, and the tax map key number. Endorsements, if any,
22 may be made on a conforming fly sheet. If an instrument

1 consists of more than one page, each page shall be single-sided
2 sheets of written text numbered consecutively, beginning with
3 number one, and shall be stapled once in the upper left corner.

4 No instrument shall have a cover or backer attached. The
5 assistant registrar shall be permitted to remove any rivets
6 affixed to any instrument.

7 (c) All names of all natural persons signing in their
8 individual capacity in the instrument shall be typewritten,
9 stamped, legibly printed by hand, or by a mechanical or
10 electrical printing method beneath all signatures. No
11 discrepancy in any name shall exist between the printed name, as
12 it appears either in the body of the instrument, beneath the
13 signature, or in the notary's certificate of acknowledgment.
14 The provisions of this subsection shall not apply to any deed or
15 conveyance instrument executed prior to July 1, 1989.

16 (d) The assistant registrar may refuse to file or record
17 any instrument that will not reproduce legibly under
18 photographic or electrostatic methods, or that is of a size
19 larger than eight and one-half inches by eleven inches, or that
20 contains a schedule, inventory sheet, or map in excess of that
21 size.

22 (e) The assistant registrar may accept an electronic

1 instrument in lieu of an original instrument with original
2 signatures subject to the requirements set forth in rules
3 adopted by the department of land and natural resources
4 consistent with this section and chapter 489E."

5 SECTION 4. Section 501-117, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§501-117 Procedure.** Registration of a mortgage shall be
8 made in the manner following: the mortgage shall be presented to
9 the assistant registrar who shall enter upon the original
10 certificate of title a memorandum of the purport of the
11 mortgage, the time of filing or recording, the document number
12 of the mortgage, and shall sign the memorandum. The assistant
13 registrar shall also note upon the mortgage, attach to, or
14 logically associate with the mortgage, the time of filing or
15 recording, and a reference to the volume and page of the
16 registration book where it is registered."

17 SECTION 5. Section 501-131, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§501-131 Transfer in trust; procedure.** Whenever a deed
20 or other instrument is filed or recorded for the purpose of
21 transferring registered land in trust, or upon any equitable
22 condition or limitation expressed therein, or for the purpose of

1 creating or declaring a trust or other equitable interest in
2 land without transfer, the particulars of the trust, condition,
3 limitation, or other equitable interest shall not be entered on
4 the certificate; but a memorandum thereon shall be entered by
5 the words "in trust", or "upon condition", or other apt words,
6 and by a reference by number to the instrument authorizing or
7 creating the same. The assistant registrar shall note upon,
8 attach to, or logically associate with the original instrument
9 creating or declaring the trust or other equitable interest a
10 reference by number of the certificate of title to which it
11 relates. If the instrument creating or declaring a trust or
12 other equitable interest is already recorded in the bureau of
13 conveyances or admitted to probate, or any order of a federal
14 court creating or declaring a trust in real property has been
15 made, a certified copy may be filed or recorded by the assistant
16 registrar and registered."

17 SECTION 6. Section 502-7, Hawaii Revised Statutes, is
18 amended by amending the definition of "signature" to read as
19 follows:

20 "Signature" means the name of a person as written by the
21 individual or the affixing of a mark or finger or toe print. It
22 may also include an electronic signature, as defined in section

1 489E-2. The department of land and natural resources shall
2 identify by rule the form of the electronic signature that the
3 bureau of conveyances is able to accept."

4 SECTION 7. Section 502-31, Hawaii Revised Statutes, is
5 amended to read as follows:

6 **"§502-31 Recording, method.** The registrar shall make or
7 cause to be made an entire literal copy of all instruments, with
8 their original signatures, required to be recorded in the
9 registrar's office, and the registrar, the registrar's deputy,
10 or clerk shall certify its correspondence with the original,
11 after which the registrar, the registrar's deputy, or clerk
12 shall certify upon the exterior, or indorse upon the recorded
13 instrument with the original signature, the date of its registry
14 and the document number.

15 The registrar, for purposes of the general indexes of the
16 bureau of conveyances, shall use the names of the parties as
17 they first appear in the recorded instrument. All names of all
18 natural persons signing in their individual capacity shall be
19 typewritten, stamped, legibly printed by hand, or by a
20 mechanical or electrical printing method beneath all
21 signatures. The provisions of this paragraph shall not apply to

1 any deed or conveyance instrument executed prior to July 1,
2 1989.

3 The registrar or the registrar's deputy may refuse to
4 accept for record any document of a size larger than eight and
5 one-half inches by eleven inches, or which contains a schedule
6 or inventory sheet in excess of such size.

7 This section shall apply to all instruments presented for
8 recording in the bureau of conveyances, unless otherwise
9 provided by rules adopted by the department of land and natural
10 resources, pursuant to chapter 91.

11 All instruments to be recorded shall include the original
12 signature and the top three and one-half inches of space of the
13 first page shall be reserved for recording information for the
14 assistant registrar on the left half of such space, and for the
15 registrar of conveyances on the right half of such space. The
16 following one inch of space shall be reserved for information
17 showing to whom the document should be returned beginning one
18 and one-half inch from the left margin and not exceeding three
19 and one-half inches per line. In addition, the first page shall
20 identify and include, if possible, all names of the grantors and
21 all names and addresses of the grantees, the type of document,
22 and the tax map key number. Indorsements, if any, may be made

1 on a conforming fly sheet. No papers or materials, written or
2 otherwise, shall be secured or attached to a page in any manner
3 that may conceal any other written text. If an instrument
4 consists of more than one page, each page shall be single-sided
5 sheets of written text numbered consecutively, beginning with
6 number one, and shall be stapled once in the upper left corner.
7 No instrument shall have a cover or backer attached. The
8 registrar of conveyances shall be permitted to remove any rivets
9 affixed to any instrument. The registrar may refuse to accept
10 all instruments, papers, or notices presented for recordation
11 that will not reproduce legibly under photographic, electronic,
12 or electrostatic methods. The registrar shall accept an
13 electronic instrument in lieu of an original instrument with
14 original signatures subject to the requirements set forth in
15 rules adopted by the department of land and natural resources
16 consistent with this section and chapter 489E. A party shall be
17 required to submit electronically information regarding the
18 instrument, the parties to the instrument, and other information
19 required by the department of land and natural resources, in a
20 form specified by rule, together with all electronic
21 instruments."

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1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect upon its approval.

4

5

INTRODUCED BY:

~~_____~~

6

BY REQUEST

Report Title:

Land Recordation; Electronic Filing

Description:

Authorizes the Bureau of Conveyance to accept electronic instruments in lieu of original instruments with original signatures.

SB 955

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: A BILL FOR AN ACT RELATING TO FILINGS IN THE BUREAU OF CONVEYANCES.

PURPOSE: To authorize the Bureau of Conveyances (Bureau) to accept electronic instruments in lieu of original instruments with original signatures.

MEANS: Amend sections 501-20, 501-107, 501-108, 501-117, 501-131, 502-7, and 502-31, Hawaii Revised Statutes.

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

Impact on the public: This bill will allow for faster and better processing of documents to be recorded at the Bureau. People on the neighbor islands will be able to record documents electronically with the Bureau without the need to mail or courier documents to Honolulu.

Impact on the department and other agencies: The Bureau will be able to record and index documents faster and more efficiently through the use of electronic documents and an electronic cover sheet.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

LNR 111.

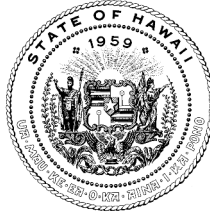
OTHER AFFECTED
AGENCIES:

Judiciary/Land Court.

EFFECTIVE DATE:

Upon approval.

LINDA LINGLE
GOVERNOR OF HAWAII



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

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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 955
RELATING TO REAL PROPERTY**

Senate Bill 955 would allow the Bureau of Conveyances (Bureau) and the Office of the Assistant Registrar to archive all records in a digital format. The Department of Land and Natural Resources (Department) strongly supports this Administration bill.

Presently, records in the Bureau are allowed to be stored in photographic or electrostatic copy only. In order to improve efficiency and avoid duplication of functions at the Bureau, it is critical to allow records to be scanned and stored in an electronic format. This bill will allow the Bureau to eliminate the step to microfilm the documents which will offer a faster return of original documents to the public.

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

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. 955 Relating to Filings in the 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 in Hawai'i. HAR **supports S.B. 955**, which permits the registrar of the Bureau of Conveyances to accept electronic documents with electronic signatures.

The Bureau of Conveyances accepts only original paper instruments with original signatures for recordation in the Regular and Land Court systems. S.B. 955 will allow the Bureau to accept electronic documents for recordation.

HAR supports efforts to allow for faster and better processing of documents. Electronic recording will also allow neighbor island residents and businesses to save costs by eliminating the need to mail or courier documents. Acceptance of electronic files will make the Bureau of Conveyances more efficient, and ultimately, benefit the real estate industry and consumers.

Mahalo for the opportunity to testify.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

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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. 955 – RELATING TO FILINGS IN THE BUREAU OF CONVEYANCES

The purpose of S.B. 955 is to authorize the Bureau of Conveyances to accept electronic instruments in lieu of original instruments with original signatures.

While we do not oppose more efficient state government operations, the Hawaii Government Employees Association provides the following comments.

We agree that technological changes and innovations create many opportunities to become more efficient in the way government conducts business. It is no doubt that the use of electronic communications to conduct transactions in any work operation has the potential to increase the efficiency of the current operations. However, if the infrastructure and appropriate staffing to effectively implement any system is not in place, efficiency of service to the public can actually decrease.

We request that as the department moves forward to take advantage of technology to improve the services provided by Bureau of Conveyances, they make sure to have the appropriate infrastructure, staffing and training in place to implement and maintain any changes made in the Bureau of Conveyances' operations.

Thank you for the opportunity to comment on S.B. 955.

Respectfully submitted,

fa Nora A. Nomura
Deputy Executive Director