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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: Calvin K. Jay  
6 BY REQUEST

JAN 26 2009

**Report Title:**

Land Recordation; Electronic Filing

**Description:**

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

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.