

JAN 26 2009

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# A BILL FOR AN ACT

RELATING TO THE TAX LIEN AND ENCUMBRANCE RECORD.

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

1           SECTION 1. The legislature finds that there is a need to  
2 expand the ability of state and county agencies to pursue  
3 reimbursement of outstanding debts while many debtors ignore  
4 payment obligations and recovery efforts by state and county  
5 agencies. The legislature finds that encumbrances on real  
6 property and motor vehicles are an effective mechanism to  
7 significantly increase the likelihood of recovering outstanding  
8 debts. One purpose of this Act is to clarify that judgments  
9 payable to the State or a county are also valid claims for  
10 purposes of encumbrances recorded in the county motor vehicle  
11 tax lien and encumbrance record.

12           Currently, agencies may record liens or claims with the  
13 director of finance of each county, but are required to pay a  
14 statutory fee that is deposited into the general fund. The  
15 legislature finds that the fee is hindering some agencies from  
16 utilizing the tax lien and encumbrance record to assist in the  
17 recovery of outstanding debts owed the agency. Another purpose  
18 of this Act is to clarify that state and county agencies are not

1 required to pay a fee for the recording of an entry in the tax  
2 lien and encumbrance record.

3 SECTION 2. Section 286-46, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§286-46 Tax lien and encumbrance record.** (a) The  
6 director of finance shall keep a book or record to be known as  
7 the "tax lien and encumbrance record" in which the following  
8 information shall be entered:

- 9 (1) Notices of liens for internal revenue taxes payable to  
10 the United States and certificates of release thereof;
- 11 (2) Notices of liens [~~or~~], taxes, or judgments payable to  
12 the State or county and certificates of release  
13 thereof;
- 14 (3) Notices of seizure in accordance with law of any  
15 registered motor vehicle upon any writ of attachment,  
16 execution, or other process issued under authority of  
17 law;
- 18 (4) Notices of restraining order or other order affecting  
19 the registration of any registered motor vehicle;
- 20 (5) Notice of any proceeding or action affecting the title  
21 of a registered motor vehicle or the interest of the  
22 owner or legal owner thereof; and

1 (6) Notice of release of any of the foregoing.

2 (b) With the exception of delinquent taxes and penalties  
3 imposed by section 249-10, the record shall show the year,  
4 month, day, hour, and minute at which the notice has been filed  
5 with the director of finance, shall show the nature and kind of  
6 lien or encumbrance claimed, the amount of tax or other claim,  
7 with interest, penalties, and costs, and shall identify the  
8 registered motor vehicles affected by the lien or encumbrance,  
9 and shall contain such further information as the director of  
10 finance may require. The record shall be a public record and  
11 may be arranged in such manner as the director of finance  
12 determines.

13 The interest of the owner or the legal owner in the motor  
14 vehicle shall not be deemed to be affected until the notice  
15 referred to in subsection (a)(1) to (5) has been filed with the  
16 director of finance in such form as the director of finance  
17 shall prescribe for entry in the tax lien and encumbrance  
18 record; provided the director of finance [~~may~~] shall require the  
19 payment of delinquent taxes and penalties or judgments payable  
20 to the State or county as a condition precedent to the vehicle's  
21 renewal, registration, or transfer of ownership. The director  
22 of finance shall charge a fee of \$5 for each entry made in the

S.B. NO. 860

1 tax lien and encumbrance record, which shall be deposited in the  
2 general fund. Neither the State, nor any political subdivision,  
3 shall be charged a fee for any entry made in the tax lien and  
4 encumbrance record.

5 Nothing in this section shall be deemed to alter or amend  
6 any statute relating to tax liens or the enforcement thereof."

7 SECTION 3. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

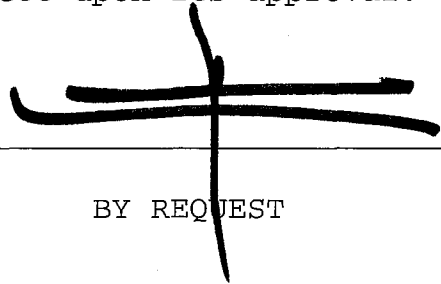
9 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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BY REQUEST

**Report Title:**

Tax Lien and Encumbrance Record

**Description:**

Enables encumbrance of motor vehicle titles for outstanding judgments payable to the State or a county by allowing recordation in a county director of finance's "tax lien and encumbrance record" with an exemption for state or county agencies from paying the statutory fee of \$5.

SB 860

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE TAX LIEN AND ENCUMBRANCE RECORD.

PURPOSE: The purposes of this bill are to encumber vehicle titles by allowing the recordation of outstanding judgments payable to the State or county in the county director of finance's "tax lien and encumbrance record," to require the payment of delinquent taxes and penalties or judgments payable to the State or county as a condition precedent to the vehicle's renewal, registration, or transfer of ownership, and to exempt state or county agencies from paying the statutory fee of \$5.

MEANS: Amend section 286-46, Hawaii Revised Statutes.

JUSTIFICATION: The encumbrance of motor vehicle titles will assist in expanding the ability of state and county agencies to recover moneys for outstanding judgments owed to the State or a county. By requiring the payment of outstanding taxes and penalties or judgments payable to the State or a county, as a condition precedent to the vehicle's renewal, registration, or transfer of ownership, the county director of finance would have no discretion as to whether or not to collect the outstanding moneys. The statutory fee of \$5 per entry is hindering some agencies from utilizing the tax lien and encumbrance record to assist in the recovery of outstanding debts owed to the agency.

Impact on the public: There will be an impact only on those citizens who have outstanding judgments owed to the State or a county.

Impact on the department and other agencies:  
These provisions will ease the ability to collect on outstanding judgments.

GENERAL FUND: To be determined.

OTHER FUNDS: To be determined.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: All state and county agencies with  
outstanding judgments owed to them.

EFFECTIVE DATE: Upon approval.