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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 since 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. This Act clarifies that judgments payable to the State  
9 or a county are also valid claims for purposes of encumbrances  
10 recorded in the county motor vehicle tax lien and encumbrance  
11 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 using the tax lien and encumbrance record to assist in the  
17 recovery of outstanding debts owed by the agency. This Act also  
18 clarifies that state and county agencies are not required to pay



1 a fee for the recording of an entry in the tax lien and  
2 encumbrance record for which a county would only be required to  
3 search their vehicle registration computer files.

4 Further, the legislature also finds that there may have  
5 been extenuating circumstances or reasons as to why debtors  
6 failed to pay the initial amount of such claims or failed to  
7 make timely payment or take timely action. Such debtors, in  
8 spite of such reasons or circumstances, are now faced with  
9 having to pay higher amounts, penalties, and other fees or  
10 charges over and above the initial amount owed by the debtor.  
11 Mindful of such circumstances and the additional problems and  
12 new burdens this Act will place on such debtors whose amounts  
13 owed on a particular claim do not exceed \$500, this Act as a  
14 measure of fairness, to expedite matters and to avoid time-  
15 consuming and costly procedures further provides that for a  
16 period of eighteen months from the effective date of this Act,  
17 the State or county holding such claims and to whom moneys may  
18 be owed shall have the sole and absolute discretion to collect  
19 in full satisfaction a lesser amount; provided that such amount  
20 is at least what the debtor would have owed if timely payment  
21 had been made or action taken by the debtor, and provided the



1 present amount owed as to any individual judgment, claim, lien,  
2 or encumbrance is not more than \$500.

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[-]; and provided  
22 further that the director of finance shall waive such required



1 payment and shall record the transfer of ownership if the  
2 existing owner or prospective new owner for such vehicle  
3 provides evidence, satisfactory to the director of finance, that  
4 at the time the existing owner or prospective new owner took  
5 ownership of the vehicle there were no notices of liens or  
6 judgments as to the vehicle on the motor vehicle registration  
7 computer file. The director of finance shall charge a fee of \$5  
8 for each entry made in the tax lien and encumbrance record,  
9 [which] that shall be deposited in the general fund. Neither  
10 the State, county, nor any political subdivision shall be  
11 charged a fee for any entry made in the tax lien and encumbrance  
12 record if the search for the vehicle is limited to and found on  
13 the motor vehicle registration computer file.

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

16 SECTION 3. Notwithstanding the provisions contained in  
17 Section 2 of this Act or any law to the contrary, for a period  
18 of eighteen months from the effective date of this Act and as to  
19 the State or any county to whom a debtor may be responsible for  
20 any judgment, claim, lien or encumbrance under section 286-46,  
21 Hawaii Revised Statutes, as amended in section 2 of this Act,  
22 the State and county shall have the absolute right, power, and



1 authority to settle, discharge, release, and resolve in its sole  
2 and absolute discretion any and all such judgments, claims,  
3 liens and encumbrances for an amount not less than what the  
4 debtor would have paid the State or county had the debtor made  
5 timely payment or taken appropriate action prior to such  
6 judgment, claim, lien, or encumbrance; provided that the  
7 outstanding amount as to any single violation, judgment, claim,  
8 lien, or encumbrance settled in accordance with this Act shall  
9 not exceed \$500 as of the effective date of this Act.

10 SECTION 4. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.



**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. Provides certain exceptions. (SB2863 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

