



GOV. MSG. NO. **1223**

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 15, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

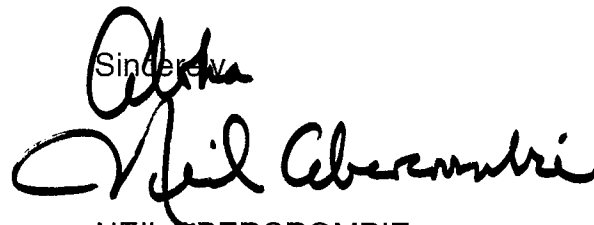
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 15, 2012, the following bill was signed into law:

SB2632 SD1 HD1 CD1

RELATING TO FEE TIME SHARE INTERESTS.
Act 121 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

JUN 15 2012

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

ACT 121
S.B. NO. 2632
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO FEE TIME SHARE INTERESTS.

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 regular session of 2007, identified serious
4 shortcomings relating to the bureau of conveyances. Act 120,
5 Session Laws of Hawaii 2009, was adopted in response to the
6 findings of the committee. Act 120 was intended to ease the
7 backlog in land court recording and registration by, among other
8 things, transferring fee simple time share interests from the
9 land court system to the regular system.

10 Act 120 requires that, upon presentation of a deed or any
11 other instrument affecting a fee time share interest, the
12 assistant registrar of the land court shall not file the same in
13 the land court. Rather, the assistant registrar shall:

14 (1) Update the certificate of title for all fee time share
15 interests in the time share plan;

16 (2) Record in the regular system the updated certificate
17 of title for each fee time share interest in the time
18 share plan;



- 1 (3) Record in the regular system the deed or other
2 instrument presented for recording; and
3 (4) Cancel the certificate of title for each fee time
4 share interest in the time share plan.

5 Once the certification of title for a fee time share
6 interest is recorded, that time share interest is no longer
7 subject to the land court pursuant to chapter 501, Hawaii
8 Revised Statutes. From then on, all deeds and other instruments
9 affecting the fee time share interest shall be recorded in the
10 regular system. This process is known as deregistration of fee
11 time share interests.

12 The legislature finds that the task of updating and
13 recording the certificates of title for all fee time share
14 interests concurrently has exceeded the capacity of the land
15 court, particularly in light of the approximately three year
16 backlog of land court recordings and registration existing at
17 the time that Act 120 took effect.

18 Accordingly, the purpose of this Act is to ease the backlog
19 in land court recording and registration by:

- 20 (1) Requiring all fee time share interests to be recorded
21 in the regular system rather than the land court, as
22 of the effective date of this Act; and



1 (2) Streamlining the procedure for deregistering all
2 remaining fee time share interests.

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

5 1. By adding a new definition to be appropriately inserted
6 and to read:

7 "Date and time of deregistration" means:

8 (1) The date and time that a certificate of title for
9 land, other than a fee time share interest, is
10 recorded pursuant to section 501-261;

11 (2) The date and time, if prior to July 1, 2012, when a
12 certificate of title for a fee time share interest was
13 recorded in the bureau of conveyances pursuant to
14 chapter 502 and part II of this chapter, whether such
15 certificate of title was or is certified by the
16 assistant registrar prior to, subsequent to, or on
17 July 1, 2012;

18 (3) July 1, 2012, at 12:01 a.m. for all other fee time
19 share interests then in existence and for which a
20 certificate of title was not recorded in the bureau of
21 conveyances pursuant to chapter 502 and part II of
22 this chapter prior to July 1, 2012; and



1 (4) For all fee time share interests not yet in existence
2 as of July 1, 2012, at 12:01 a.m., the date and time
3 of recordation of the declaration, declaration of
4 annexation, or other document or instrument
5 establishing such fee time share interest."

6 2. By amending the definitions of "deregistered land" and
7 "fee time share interest" to read:

8 "Deregistered land" means [~~land that is the subject of a~~
9 ~~certificate of title recorded pursuant to section 501-261.~~];

10 (1) Land, other than a fee time share interest, that is
11 the subject of a certificate of title recorded
12 pursuant to section 501-261;

13 (2) A fee time share interest that is the subject of a
14 certificate of title recorded in the bureau of
15 conveyances pursuant to chapter 502 and part II of
16 this chapter prior to July 1, 2012, whether the
17 certificate of title is certified by the assistant
18 registrar on, before, or after July 1, 2012; and

19 (3) All other fee time share interests.

20 "Fee time share interest" means a time share interest,
21 other than a leasehold time share interest, that [~~consists~~], at
22 any time on or after July 1, 2011, consists or consisted of, or



1 includes [~~a present,~~] or included an undivided interest in
2 registered land, including but not limited to an undivided
3 interest in one or more fee simple condominium apartments or
4 units established in whole or in part on registered land."

5 SECTION 3. Section 501-71, Hawaii Revised Statutes, is
6 amended by amending subsection (e) to read as follows:

7 "(e) Deregistration pursuant to sections 501-261 to
8 501-269 shall not alter or revoke the conclusive nature or
9 effect of a decree of registration, which shall continue to
10 quiet the title to the deregistered land as to all claims
11 arising prior to the [~~recording of the certificate of title~~
12 ~~pursuant to section 501-261,~~] date and time of deregistration of
13 the land, except claims as would not otherwise be barred under
14 this chapter if the lands were not registered."

15 SECTION 4. Section 501-261, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "[+]§501-261[+] Deregistration of fee interests. (a) The
18 registered owner of the fee interest in registered land may
19 submit a written request to the assistant registrar to
20 deregister the land under this chapter.

21 (1) Any written request for deregistration shall include
22 proof of title insurance in the amount of the value of



1 the land to be deregistered and a written waiver of
2 all claims against the State relating to the title to
3 the land arising after the date of deregistration.

4 (2) Upon presentation to the assistant registrar [~~for~~
5 ~~filing or recording of any instrument, document, or~~
6 ~~paper conveying or encumbering a fee time share~~
7 ~~interest or any interest therein, or upon the] of a
8 written request [under subsection (d) of the] for
9 deregistration by the registered owner of the fee
10 interest in registered land, the assistant registrar
11 shall not register the same, but shall:~~

12 [~~(1)~~] (A) Record in the bureau of conveyances, pursuant to
13 chapter 502, the current certificate of title for
14 the fee interest in the registered land [~~or the~~
15 ~~registered land in which the fee time share~~
16 ~~interest includes an undivided interest];~~
17 provided that [+]

18 ~~(A)~~ ~~Prior~~] prior thereto, the assistant registrar
19 shall note on the certificate of title all
20 documents and instruments that have been accepted
21 for registration and that have not yet been noted



1 on the certificate of title ~~[, and]~~ for the
2 registered land;

3 ~~[(B) If separate certificates of title have been~~
4 ~~issued for individual fee time share interests in~~
5 ~~the time share plan, the assistant registrar~~
6 ~~shall record in the bureau of conveyances,~~
7 ~~pursuant to chapter 502, the certificate of title~~
8 ~~for each fee time share interest in the time~~
9 ~~share plan,~~

10 ~~(2)]~~ (B) Record in the bureau of conveyances, pursuant to
11 chapter 502, the ~~[instrument, document, paper,~~
12 ~~or]~~ written request for deregistration presented
13 to the assistant registrar for filing or
14 recording. The ~~[instrument, document, paper, or]~~
15 request shall be recorded immediately after the
16 certificate or certificates of title; and

17 ~~[(3)]~~ (C) Cancel the certificate of title.

18 ~~[(b)]~~ (3) The registrar or assistant registrar shall note
19 the recordation and cancellation of the certificate of
20 title in the registration book and in the records of
21 the application for registration of the land that is
22 the subject of the certificate of title. The notation



1 shall state the bureau of conveyances document number
2 for the certificate of title so recorded, the
3 certificate of title number, and the land court
4 application number, map number, and lot number for the
5 land that is the subject of the certificate of title
6 so recorded.

7 ~~[(e)]~~ (4) No order of court shall be required prior to or
8 in connection with the performance of any of the
9 foregoing actions.

10 ~~[(d) The registered owner of the fee interest in registered~~
11 ~~land may submit a written request to the assistant registrar to~~
12 ~~deregister the land under this chapter. Any written request for~~
13 ~~deregistration shall include proof of title insurance in the~~
14 ~~amount of the value of the land to be deregistered and a written~~
15 ~~waiver of all claims against the State relating to the title to~~
16 ~~the land arising after the date of deregistration.]~~

17 (b) The certificate of title for each fee time share
18 interest shall be canceled effective as of the date and time of
19 deregistration of such fee time share interest. Notwithstanding
20 the provisions of section 501-261 in existence prior to July 1,
21 2012, a fee time share interest for which a certificate of title
22 was not recorded in the bureau of conveyances pursuant to



1 chapter 502 and part II of this chapter prior to July 1, 2012,
2 shall be deregistered on July 1, 2012, at 12:01 a.m.

3 (1) Beginning on July 1, 2012, and continuing for so long
4 as shall be reasonably necessary in the ordinary
5 course of business, the assistant registrar shall:

6 (A) Note on the certificate of title for each fee
7 time share interest all documents and instruments
8 affecting the fee time interest:

9 (i) That were or are registered as of a date and
10 time prior to the date and time of
11 deregistration of the fee time share
12 interest; and

13 (ii) That were not yet noted on the certificate
14 of title of the fee time share interest as
15 of the date and time of deregistration
16 thereof; and

17 (B) Certify each certificate of title.

18 (2) Section 501-196 shall apply to a certificate of title
19 updated pursuant to paragraph (1) upon approval of the
20 same by the assistant registrar, which approval shall
21 be evidenced by a certification of the assistant
22 registrar endorsed upon the certificate of title. A



1 certificate of title for a fee time share interest,
2 including but not limited to a certificate of title
3 recorded prior to July 1, 2012, pursuant to part II of
4 this chapter 501, shall not be considered completed or
5 approved, and shall be subject to modification by the
6 assistant registrar, at any time prior to
7 certification thereof by the assistant registrar.
8 Subsequent to the certification, the certificate of
9 title for a fee time share interest may only be
10 modified pursuant to section 501-196 or as otherwise
11 provided in this chapter.

- 12 (3) Upon certification of the certificate of title for a
13 fee time share interest by the assistant registrar,
14 the assistant registrar shall mark the certificate of
15 title "cancelled", note the cancellation of the
16 certificate of title in the registration book, and
17 notify the court of the cancellation. Regardless of
18 the date upon which such administrative acts are
19 performed, the cancellation of the certificate of
20 title for a fee time share interest shall be effective
21 as of the date and time of deregistration of that fee
22 time share interest.



1 (4) If only part of the land described in the certificate
 2 of title consists of a fee time share interest, then
 3 upon the petition of the registered owner of that
 4 portion of the registered land not constituting a fee
 5 time share interest, a new certificate of title shall
 6 be issued to such owner for that portion of the
 7 registered land not constituting a fee time share
 8 interest. If registered land is held in the
 9 condominium form of ownership, then for purposes of
 10 this subsection each unit for which a separate
 11 certificate of title has been issued shall be treated
 12 as if it were a separate parcel of registered land.

13 (5) Except as provided in paragraph (4), no order of court
 14 shall be required prior to or in connection with the
 15 performance of any of the foregoing actions."

16 SECTION 5. Section 501-262, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 "[+]§501-262[+] **Effect of deregistration.** (a) [~~Upon the~~
 19 ~~recordation in the bureau of conveyances of a certificate of~~
 20 ~~title pursuant to section 501-261:]~~ From and after the date and
 21 time of deregistration of registered land:



1 (1) The deregistered land shall no longer be registered
2 land for purposes of this chapter;

3 (2) No instruments, documents, or papers relating solely
4 to deregistered land shall be filed or recorded with
5 the assistant registrar pursuant to this chapter, but
6 shall instead be recorded in the bureau of conveyances
7 pursuant to chapter 502; and

8 (3) Except as otherwise expressly provided in this
9 chapter, chapter 502 shall apply to the deregistered
10 land.

11 (b) ~~[Recordation of a certificate of title]~~ Neither
12 voluntary deregistration of land other than a fee time share
13 interest pursuant to section 501-261 nor the mandatory
14 deregistration of any fee time share interest pursuant to part
15 II of this chapter, whether by recordation of a certificate of
16 title in the bureau of conveyances prior to July 1, 2012, or by
17 operation of law thereafter, shall ~~[not]~~ disturb the effect of
18 any proceedings in the land court where the question of title
19 has been determined. All proceedings had in connection with the
20 registration of title that relate to the settlement or
21 determination of title before ~~[that recording,]~~ a certificate of
22 title for land other than a fee time share interest is recorded



1 pursuant to section 501-261 or a certificate of title for a fee
2 time share interest is certified and all provisions of this
3 chapter that relate to the status of the title, shall have
4 continuing force and effect with respect to the period of time
5 that title remained under the land court system. Those
6 provisions giving rise to a right of action for compensation
7 from the State, including any limits on and conditions to the
8 recovery of compensation and the State's rights of subrogation
9 with respect thereto, shall also continue in force and effect
10 with respect to the period of time that title remained under the
11 land court system."

12 SECTION 6. Section 501-264, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) A certificate of title for land other than a fee time
15 share interest recorded pursuant to section 501-261, or
16 certified by the assistant registrar in the case of a fee time
17 share interest, shall constitute a new chain of record title in
18 the registered owner of any estate or interest as shown on the
19 certificate of title so recorded[7] or certified, subject only
20 to the following:



- 1 (1) The estates, mortgages, liens, charges, instruments,
2 documents, and papers noted on the certificate of
3 title so recorded[+] or certified;
- 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[+] or certified, with interest, penalties,
16 and other additions to the tax, which, unless a notice
17 is filed and registered as provided by county real
18 property tax ordinance, shall be for the period of
19 three years from and after the date on which the lien
20 attached, and if proceedings for the enforcement or
21 foreclosure of the tax lien are brought within the



1 period, until the termination of the proceedings or
2 the completion of 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 required to be registered as
18 provided in sections 501-241 to 501-248 and relating
19 to a leasehold time share interest or leasehold
20 interest in deregistered land; and
- 21 (10) Child support liens that are created pursuant to order
22 or judgment filed through judicial or administrative



1 proceeding in this State or in any other state, the
2 recording of which shall be as provided by chapter
3 576D."

4 SECTION 7. Section 502-33, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§502-33 Identification of reference to registration of**
7 **original.** ~~[The]~~ (a) If the owner of a fee time share interest
8 acquired title thereto pursuant to a deed or other instrument
9 filed or recorded in the land court pursuant to chapter 501,
10 then the registrar need not accept for recording any deed,
11 mortgage, or other voluntary instrument purporting to convey or
12 affect title to such fee time share interest unless the deed,
13 mortgage, or other voluntary instrument contains a reference to
14 the certificate of title number by which the owner of the fee
15 time share interest acquired title thereto. The term "fee time
16 share interest" as used in this subsection shall have the same
17 meaning as in section 501-20.

18 (b) Except as otherwise provided in subsection (a), the
19 registrar shall not record any instrument requiring a reference
20 to a prior recorded instrument, unless the same contains a
21 reference to the book and page or document number of the
22 registration of the original recorded instrument or a statement



1 that the original instrument is unrecorded, as the case may be.
2 Except as otherwise provided, every judgment shall contain or
3 have endorsed on it the State of Hawaii general excise taxpayer
4 identification number, the federal employer identification
5 number, or the last four digits only of the social security
6 number for persons, corporations, partnerships, or other
7 entities against whom the judgment is rendered. If the judgment
8 debtor has no social security number, State of Hawaii general
9 excise taxpayer identification number, or federal employer
10 identification number, or if that information is not in the
11 possession of the party seeking registration of the judgment,
12 the judgment shall be accompanied by a certificate that provides
13 that the information does not exist or is not in the possession
14 of the party seeking registration of the judgment. Failure to
15 disclose or disclosure of an incorrect social security number,
16 State of Hawaii general excise taxpayer identification number,
17 or federal employer identification number shall not in any way
18 adversely affect or impair the lien created upon registration of
19 the judgment. No amendment, continuation statement, termination
20 statement, statement of assignment, or statement of release
21 relating to security interests in goods which are or are to
22 become fixtures shall be filed unless it complies with the



1 requirements of part 5 of Article 9 of the Uniform Commercial
2 Code. This section does not apply to any document mentioned
3 herein executed prior to April 13, 1915.

4 The party seeking registration of a judgment shall redact
5 the first five digits of any social security number by blocking
6 the numbers out on the copy of the judgment to be filed or
7 recorded."

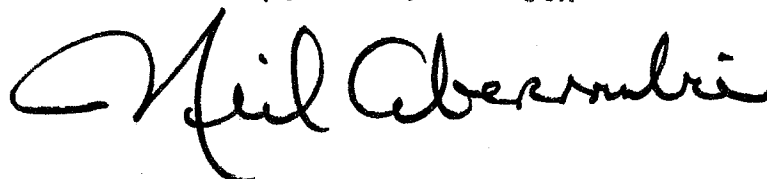
8 SECTION 8. Section 657-33.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§657-33.5[+] Deregistered land. In no event shall the
11 period of limitations provided in this part begin prior to the
12 ~~[recording of the certificate of title]~~ date and time of
13 deregistration for deregistered land. The terms "date and time
14 of deregistration" and "deregistered land" as used in this
15 section shall have the same meaning as in section 501-20."

16 SECTION 9. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act shall take effect on July 1, 2012.

APPROVED this 15 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII