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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 also finds that encumbrances on real  
6 property and motor vehicles are an effective mechanism to  
7 increase the likelihood of recovering outstanding debts.

8           Currently, agencies may record liens or claims with the  
9 director of finance of each county, but are required to pay a  
10 statutory fee that is deposited into the general fund. The  
11 legislature finds that the fee is hindering some agencies from  
12 utilizing the tax lien and encumbrance record to assist in  
13 recovery of outstanding debts owed to the agency.

14           The purpose of this Act is to:

15           (1) Clarify that judgments are also valid claims for  
16               purposes of encumbrances recorded in the tax lien and  
17               encumbrance record;



- 1           (2) Allow a taxpayer to enter into a payment agreement  
2           with the department of taxation to avoid a lien and  
3           encumbrance recordation; and
- 4           (3) Clarify that state and county agencies are not  
5           required to pay a fee for the recording of an entry in  
6           the tax lien and encumbrance record, under certain  
7           conditions.

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

10           "**§286-46 Tax lien and encumbrance record.** (a) The  
11           director of finance shall keep a book or record to be known as  
12           the "tax lien and encumbrance record" in which the following  
13           information shall be entered:

- 14           (1) Notices of liens for internal revenue taxes payable to  
15           the United States and certificates of release thereof;
- 16           (2) Notices of liens [~~or~~], taxes, or judgments payable to  
17           the State or county and certificates of release  
18           thereof;
- 19           (3) Notices of seizure in accordance with law of any  
20           registered motor vehicle upon any writ of attachment,  
21           execution, or other process issued under authority of  
22           law;



- 1           (4) Notices of restraining order or other order affecting  
2           the registration of any registered motor vehicle;
- 3           (5) Notice of any proceeding or action affecting the title  
4           of a registered motor vehicle or the interest of the  
5           owner or legal owner thereof; and
- 6           (6) Notice of release of any of the foregoing.
- 7           (b) With the exception of delinquent taxes and penalties  
8 imposed by section 249-10, the record shall show the year,  
9 month, day, hour, and minute at which the notice has been filed  
10 with the director of finance, shall show the nature and kind of  
11 lien or encumbrance claimed, the amount of tax or other claim,  
12 with interest, penalties, and costs, and shall identify the  
13 registered motor vehicles affected by the lien or encumbrance,  
14 and shall contain such further information as the director of  
15 finance may require. The record shall be a public record and  
16 may be arranged in such manner as the director of finance  
17 determines.

18           The interest of the owner or the legal owner in the motor  
19 vehicle shall not be deemed to be affected until the notice  
20 referred to in subsection (a) (1) to (5) has been filed with the  
21 director of finance in such form as the director of finance  
22 shall prescribe for entry in the tax lien and encumbrance



1 record; provided the director of finance may require the payment  
2 of delinquent taxes and penalties as a condition precedent to  
3 the vehicle's renewal, registration, or transfer of  
4 ownership[-]; provided further that a taxpayer shall be allowed  
5 to provide evidence of entering into a payment plan with the  
6 director of taxation in lieu of paying a tax delinquency in  
7 full, in which case an entry in the tax lien and encumbrance  
8 record shall be avoided. The director of finance shall charge a  
9 fee of \$5 for each entry made in the tax lien and encumbrance  
10 record, which shall be deposited in the general fund[-];  
11 provided that state and county agencies shall not be charged a  
12 fee for any entry made in the tax lien and encumbrance record if  
13 the state or county agency provides to the director of finance  
14 the license plate number or vehicle identification number of the  
15 vehicle to be flagged.

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

18 SECTION 3. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 4. This Act shall take effect on July 1, 2012.



**Report Title:**

Tax Lien and Encumbrance Record

**Description:**

Allows the recordation of outstanding judgments payable to state or county agencies as a condition precedent to a vehicle's renewal, registration, or transfer of ownership. Exempts state and county agencies from paying the tax lien and encumbrance record statutory fee if state and county agencies to provide to the director of finance the license plate number or vehicle identification number. Allows taxpayer to enter into agreement with the department of taxation to pay the delinquent taxes in lieu of full payment to avoid recordation of a tax lien and encumbrance record. (SD1)

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

