



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Commerce and Consumer Protection

The Honorable Rosalyn H. Baker, Chair
The Honorable Brian T. Taniguchi, Vice Chair

Testimony to the Senate Committee on Judiciary and Labor

The Honorable Clayton Hee, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair

Tuesday, February 7, 2012, 9:20 a.m.
State Capitol, Conference Room 229

by
Calvin C. Ching
Acting Deputy Chief Court Administrator
First Circuit

Bill No. and Title: Senate Bill No. 2632, Relating to Fee Time Share Interests

Purpose: Ease the backlog in land court recording and registration by:

- (1) Requiring all fee time share interests to be recorded in the regular system rather than the land court, as of the effective date of this Act;
- (2) Removing the requirement that the land court update the certificates of title for individual fee time share interests as a condition to deregistration; and
- (3) Allowing the bureau of conveyances and in the office of the assistant registrar of the land court for services rendered by the bureau of conveyances.

Judiciary's Position:

The Judiciary supports the intent of SB 2632, Relating to Fee Time Share Interests, which seeks to ease the backlog in land court recording and registration.

The Judiciary is supportive of the transfer of fee simple time share interests from the land court to the regular system. And, from an operational perspective, the Judiciary is aware and understanding of the desire to ease the backlog in land court recording and registration.



Senate Bill No. 2632, Relating to Fee Time Share Interests
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However, the Judiciary must respectfully raise concerns regarding fee simple time share interest chain of title issues, which would occur upon this mandatory transfer from the land court to the regular system. These similar concerns also apply to any previously recorded time share fee interest documents, which are part of the backlog of land court recording and registration effective upon the date of this act. This bill, as written, appears ambiguous with respect to clearly addressing the chain of title as well as cancellation of certificates of title of time share fee interests from the land court to the regular system, which may ultimately impact judicial matters of registered land at the Land Court.

While the Judiciary has concerns regarding the above-noted issues, and as stated previously, is supportive of the intent of this proposed legislation, we are currently working with the Office of the Assistant Registrar, Bureau of Conveyances as well as industry representatives with the intent to provide this Legislature with an efficient and workable solution that will benefit both the government agencies as well as the public we serve. As of the date of this hearing, the Judiciary, the Office of the Assistant Registrar, Bureau of Conveyances and industry representatives recently met on February 6, to begin work on finding solutions to these and other related issues.

Thank you for the opportunity to testify on this measure.



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**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 2632, RELATING TO FEE TIME SHARE INTERESTS.

BEFORE THE:

CONSUMER PROTECTION AND COMMERCE
JUDICIARY AND LABOR

DATE: Tuesday, February 7, 2012 **TIME:** 9:20 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): David M. Louie, Attorney General, or
Cindy Y. Young, Deputy Attorney General

Chairs Baker and Hee and Members of the Committees:

The Department of the Attorney General appreciates the objectives of this but, but we must oppose the bill as currently drafted due to a subject-title problem that creates a constitutional infirmity.

The purposes of this bill are to establish that all fee time share interests constitute deregistered land, remove the requirement that the land court registrar or assistant registrar update the certificates of title for individual fee time share interests as a condition to deregistration, and allow the Bureau of Conveyances to charge a fee for each recording in the Bureau and in the Office of the Assistant Registrar of the Land Court for services rendered by the Bureau.

The title of this bill does not appear to conform to the constitutional requirement of article III, section 14, of the Hawaii State Constitution, which states, "Each law shall embrace but one subject, which shall be expressed in its title." The bill is entitled "A Bill for an Act Relating to Fee Time Share Interests." However, the bill includes two provisions that do not fit within this title.

First, section 2 of the bill on page 4, lines 1-7, expands the definition of "leasehold time share interest." This is a separate subject from "fee time share interests," and we recommend that it be removed from the bill.

Second, section 6 of the bill on page 14, lines 14-22, authorizes the Bureau of Conveyances to assess a transaction fee for each recording in the Bureau of Conveyances and in

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the Office of the Assistant Registrar of the Land Court for services rendered by the Bureau pursuant to Part II of chapters 501 and 502, HRS (including transactions involving fee simple property), which is a separate subject from "Fee Time Share Interests," and we recommend that it either be expressly limited to fee time share interests, or removed from the bill.

We respectfully recommend that the Committees remove these sections of the bill that are separate subjects from fee time share interests. Alternatively, we recommend that the Committees consider taking the entire content of this bill and putting it in another bill that has a broad enough title to encompass the entire subject matter of the bill, eliminating the portion of the bill that relates to fee simple property, or moving that portion to another bill with a title that encompasses that subject, or holding this bill.



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February 7, 2012

The Honorable Rosalyn H. Baker, Chair
The Honorable Brian T. Taniguchi, Vice Chair
Members of the Senate Committee on Commerce and Consumer Protection

The Honorable Clayton Hee, Chair
The Honorable Maile S. L. Shimabukuro, Vice Chair
Members of the Senate Committee on Judiciary and Labor

State Capitol, Conference Room 229
Honolulu, Hawaii 96813

Re: Senate Bill 2632 Relating To Fee Time Share Interests
Hearing Date: February 7, 2010
Hearing Time: 9:20 a.m.

Dear Chair Baker, Vice Chair Taniguchi, Chair Hee, Vice Chair Shimabukuro, and Members of the Senate Committee on Commerce and Consumer Protection and the Senate Committee on Judiciary and Labor:

I apologize for the late submission of this testimony and I thank you for the opportunity to express our position on Senate Bill 2632. I am Lorrin Hirano, Sr. Vice President and Legal Counsel for Title Guaranty of Hawaii, Inc.

As a company that works daily with the Bureau of Conveyances, we support the intent of this Bill. In the long run, the elimination of the need to maintain transfer certificates of title for each of the tens, if not hundreds of thousands of individual Land Court timeshare intervals will save processing time in the future for the Bureau.

It is our position that the Bill, as drafted, needs further amendments to clarify the practical process for deregistering the timeshare interests in order to make sure that the integrity of the owner's title is protected as it transitions from registered to deregistered status. We have been involved in substantive discussions to this end, and we respectfully request that your Committees allow the Bill to advance.

Thank you again for your consideration and for the opportunity to testify on this measure.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "L. Hirano".

Lorrin Hirano

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