

JAN 17 2014

A BILL FOR AN ACT

RELATING TO JUDGMENT LIENS.

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

1 SECTION 1. Section 636-3, Hawaii Revised Statutes,
2 provides that when a money judgment is rendered by a court, it
3 is considered to be a lien against the real property of the
4 judgment debtor once the judgment is recorded in the bureau of
5 conveyances. Section 636-3, Hawaii Revised Statutes, also
6 provides that, in the case of registered land, recordation must
7 be in compliance with chapter 501, Hawaii Revised Statutes.
8 Section 501-102, Hawaii Revised Statutes, and rule 62(e), Rules
9 of the Land Court, require that all documents, including a
10 monetary judgment other than a judgment providing for child
11 support, presented for recordation in the land court system must
12 contain a reference to a certificate of title number and, if
13 applicable, an indorsement of the current certificate of title
14 number.

15 The legislature finds that many money judgments do not
16 contain a reference to a certificate of title number because the
17 information is generally not known or researched prior to a
18 judgment being rendered. In addition, a judgment debtor may



1 acquire registered land after the judgment is rendered.
2 Requiring judgments to be amended in order to include references
3 to a certificate of title number is time consuming and places a
4 great burden on creditors' attorneys. Further, amending
5 judgments in order to include certificate of title numbers is
6 particularly difficult for judgments rendered in other
7 jurisdictions.

8 The legislature also finds that it has become a common
9 practice to use flysheets to identify the certificate of title
10 number of the judgment debtor's registered land and enable
11 judgments to be recorded, even when the document being presented
12 for recordation does not contain any reference to a certificate
13 of title number. It also appears that names of judgment debtors
14 are sometimes clarified or added on a flysheet when a judgment
15 does not contain complete or consistently spelled names.
16 However, the additional information added to the flysheet may or
17 may not be reliable because it is not attested to. It is
18 burdensome for the receiving clerks at the office of the
19 assistant registrar to independently verify or ascertain the
20 information contained on flysheets attached to money judgments
21 presented for recording.

22 The legislature believes that:



1 (1) Money judgments should be considered valid liens as
2 against all real property, including registered
3 property, in which a judgment debtor may have an
4 interest;

5 (2) It is impractical to require judgments that are
6 otherwise valid and enforceable to be amended to make
7 reference to certificate of title numbers as required
8 by the current law and court rule; and

9 (3) It is in the public interest to preserve the integrity
10 of the land court system by discouraging the current
11 practice of allowing possibly unverified information
12 to be added to flysheets in order to facilitate the
13 recording of monetary judgments.

14 The purpose of this Act is to clarify that money judgments
15 are considered valid liens against all real property, including
16 registered property, when recorded in the bureau of conveyances.

17 SECTION 2. Section 501-82, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) Every applicant receiving a certificate of title in
20 pursuance of a decree of registration, and every subsequent
21 purchaser of registered land who takes a certificate of title
22 for value and in good faith, hold the same free from all



1 encumbrances except those noted on the certificate in the order
2 of priority of recordation, and any of the following
3 encumbrances which may be subsisting, namely:

4 (1) 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 such liens, shall
10 be deemed to fall within this paragraph only if the
11 same are recorded in the bureau of conveyances as
12 provided by chapter 505;

13 (2) Unpaid real property taxes assessed against the land
14 and improvements covered by the certificate of title,
15 with interest, penalties, and other additions to the
16 tax, which, unless a notice is filed and registered as
17 provided by county real property tax ordinance, shall
18 be for the period of three years from and after the
19 date on which the lien attached, and if proceedings
20 for the enforcement or foreclosure of the tax lien are
21 brought within the period, until the termination of
22 the proceedings or the completion of the tax sale;



- 1 (3) State tax liens, if the same are recorded in the
- 2 bureau of conveyances as provided by section 231-33;
- 3 (4) Any public highway, or any private way laid out under
- 4 the provisions of law, when the certificate of title
- 5 does not state that the boundary of such way has been
- 6 determined;
- 7 (5) Any lease, coupled with occupancy, for a term not
- 8 exceeding one year; provided that the priority of the
- 9 unrecorded lease shall attach only at the date of the
- 10 commencement of the unrecorded lease and expire one
- 11 year from the date or sooner if so expressed;
- 12 (6) Any liability to assessments for betterments, or
- 13 statutory liability which may attach to land as a lien
- 14 prior to or independent of, the recording or
- 15 registering of any paper of the possibility of a lien
- 16 for labor or material furnished in the improvement of
- 17 the land; provided that the priority of any such
- 18 liability and the lien therefor (other than for labor
- 19 and material furnished in the improvement of the land
- 20 which shall be governed by section 507-43) shall cease
- 21 and terminate three years after the liability first
- 22 accrues unless notice thereof, signed by the officer



1 charged with collection of such assessments or
 2 liability, setting forth the amount claimed, the date
 3 of accrual, and the land affected, is registered and
 4 noted on the certificate of title within such three
 5 year period; provided further that if there are
 6 easements or other rights, appurtenant to a parcel of
 7 registered land which for any reason have failed to be
 8 registered, such easements or rights shall remain so
 9 appurtenant notwithstanding such failure, and shall be
 10 held to pass with the land until cut off or
 11 extinguished by the registration of the servient
 12 estate, or in any other manner;

13 (7) The possibility of reversal or vacation of the decree
 14 of registration upon appeal; [~~or~~]

15 (8) Any encumbrance not herein required to be registered
 16 as provided in sections 501-241 to 501-248 and
 17 relating to a leasehold time share interest[~~-~~]; or

18 (9) Money judgments, orders, or decrees of a Hawaii state
 19 court or the United States District Court for the
 20 District of Hawaii, if the same are recorded in the
 21 bureau of conveyances; provided that only the monetary
 22 lien created by the recordation shall affect the land;



1 provided further that no other provision of a
 2 judgment, order, or decree shall affect the land
 3 unless otherwise registered in compliance with this
 4 chapter."

5 SECTION 3. Section 501-102, Hawaii Revised Statutes, is
 6 amended by amending subsection (b) to read as follows:

7 "(b) This section shall not be construed to relate to
 8 state or federal tax liens or child support liens that are
 9 created pursuant to order or judgment filed through judicial or
 10 administrative proceeding in this State or in any other state,
 11 the recording of which shall be as provided by chapters 231,
 12 505, and 576D, respectively[-], or to liens arising from money
 13 judgments, orders, or decrees recorded pursuant to section 636-

14 3. The recordation of the child support order or judgment in
 15 the bureau of conveyances shall be deemed, at such time, for all
 16 purposes and without any further action, to place a lien on land
 17 registered in the land court under this chapter."

18 SECTION 4. Section 636-3, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 "**§636-3 Judgment, orders, decrees; lien when.** Any money
 21 judgment, order, or decree of a state court or the United States
 22 District Court for the District of Hawaii shall be a lien upon



1 real property when a copy thereof, certified as correct by a
2 clerk of the court where it is entered, is recorded in the
3 bureau of conveyances. No such lien shall continue beyond the
4 length of time the underlying judgment, order, or decree is in
5 force. Except as otherwise provided, every judgment shall
6 contain or have endorsed on it the Hawaii tax identification
7 number, the federal employer identification number, or the last
8 four digits only of the social security number for persons,
9 corporations, partnerships, or other entities against whom the
10 judgment, order, or decree is rendered. If the debtor has no
11 social security number, Hawaii tax identification number, or
12 federal employer identification number, or if that information
13 is not in the possession of the party seeking registration of
14 the judgment, order, or decree, the judgment, order, or decree
15 shall be accompanied by a certificate that provides that the
16 information does not exist or is not in the possession of the
17 party seeking recordation of the judgment. Failure to disclose
18 or disclosure of an incorrect social security number, Hawaii tax
19 identification number, or federal employer identification number
20 shall not in any way adversely affect or impair the lien created
21 upon recordation of the judgment, order, or decree. When any
22 judgment, order, or decree is fully paid, the creditor or the



1 creditor's attorney of record in the action, at the expense of
2 the debtor, shall execute, acknowledge, and deliver to the
3 debtor a satisfaction thereof, which may be recorded in the
4 bureau. Every satisfaction or assignment of judgment, order, or
5 decree shall contain a reference to the book and page or
6 document number of the registration of the original judgment.
7 The recording fees for a judgment, order, or decree and for each
8 assignment or satisfaction of judgment, order, or decree shall
9 be as provided by section 502-25.

10 In the case of registered land, [~~section 501-102,7~~] sections
11 501-241 to 501-248[7] and part II of chapter 501 shall govern.

12 The party seeking to record or register a judgment, order,
13 or decree shall redact the first five digits of any social
14 security number by blocking the numbers out on the copy of the
15 judgment, order, or decree to be recorded or registered."

16 SECTION 5. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 6. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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1 SECTION 7. This Act shall take effect on July 1, 2014.

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INTRODUCED BY: *Shiranne Chun Oakland*



S.B. NO. 2396

Report Title:

Judgment Liens; Money Judgments

Description:

Clarifies that money judgments are considered valid liens against all real property, including registered property, when recorded in the bureau of conveyances.

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

