

JAN 17 2014

A BILL FOR AN ACT

RELATING TO LAND COURT.

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

1 SECTION 1. The legislature finds that under the current
2 land court system, any amendment to the documents governing a
3 condominium or planned community must be noted on the
4 certificate of title for each unit. Authorizing the use of a
5 master certificate of title that lists encumbrances of general
6 application will permit certificates of title for individual
7 units to incorporate by reference the encumbrances on the master
8 certificate of title. This will eliminate the need to change
9 the certificate of title for each unit to reflect any changes in
10 the encumbrances of general application to the condominium or
11 planned community.

12 Accordingly, the purpose of this Act is to simplify and
13 streamline the operation of the land court by authorizing the
14 use of a master certificate of title for common interest
15 communities.

16 SECTION 2. Chapter 501, Hawaii Revised Statutes, is
17 amended by adding four new sections to be appropriately
18 designated and to read as follows:



1 "§501- New common interest communities. (a) Upon the
2 recording of a declaration creating a common interest community,
3 the assistant registrar shall:

4 (1) Prepare a master certificate of title for the common
5 interest community, assign a certificate number to it,
6 and index it in the same manner as for other
7 certificates of title. The name of the owner shall be
8 "homeowners";

9 (2) Issue separate certificates of title for each unit in
10 the common interest community, including any common
11 area established as a unit of a planned community;
12 provided that the assistant registrar shall not be
13 required to issue separate certificates of title for
14 the units of a planned community if the subdivision of
15 the registered land of the planned community has not
16 taken place; and

17 (3) Endorse the certificate of title for each unit in the
18 common interest community with the following
19 statement: "subject to encumbrances, liens, and
20 interests noted on master certificate of title no.
21 _____."



1 (b) In addition to the requirements under subsection (a),
2 upon the recording of a declaration creating a common interest
3 community in a condominium, the assistant registrar shall
4 include the following statement in the description of the land
5 on the certificate of title for each unit: "an undivided
6 percentage interest in the registered land of the condominium
7 equal to the common interest appurtenant to unit _____, as set
8 forth in the declaration establishing the condominium or such
9 other percentage interest as hereafter established for said
10 condominium unit by any amendment of the declaration
11 establishing the condominium or pursuant to any declaration of
12 merger effecting a legal merger of two or more condominium
13 projects into a single condominium project."

14 If two or more units in a condominium bear identical unit
15 numbers, the assistant registrar may establish a property
16 identification number or other alternate means of identifying
17 the units.

18 §501- Existing common interest communities. (a) Upon
19 the recording of an amendment or supplement to the governing
20 documents of a common interest community, the assistant
21 registrar may:



1 (1) Prepare a master certificate of title for the common
2 interest community, assign a certificate number to it,
3 and index it in the same manner as for other
4 certificates of title. The name of the owner shall be
5 "homeowners"; and

6 (2) Endorse the certificate of title for each unit in the
7 common interest community with the following
8 statement: "subject to encumbrances, liens, and
9 interests noted on master certificate of title no.
10 _____."

11 (b) In addition to the requirements under subsection (a),
12 upon the recording of an amendment or supplement to the
13 governing documents of a common interest community in a
14 condominium, the assistant registrar may change the description
15 of the land on the certificate of title for each unit to include
16 the following statement: "an undivided percentage interest in
17 the registered land of the condominium equal to the common
18 interest appurtenant to unit _____, as set forth in the
19 declaration establishing the condominium, as amended, or such
20 other percentage interest as hereafter established for said
21 condominium unit by any further amendment of the declaration
22 establishing the condominium or pursuant to any declaration of

1 merger effecting a legal merger of two or more condominium
2 projects into a single condominium project.".

3 If two or more units in a condominium bear identical unit
4 numbers, the assistant registrar may establish a property
5 identification number or other alternate means of identifying
6 the units.

7 (c) The association of a common interest community, or any
8 owner of a unit in a common interest community, may petition the
9 court for issuance of a master certificate of title for that
10 common interest community. Upon approval of the petition, the
11 assistant registrar shall proceed according to subsection (a) or
12 (b).

13 **§501- Effect of master certificate of title.** (a) The
14 entry of a notation on the master certificate of title shall
15 have the same effect as if the notation was entered on the
16 certificates of title for the individual units of the common
17 interest community as of the date and time shown on the master
18 certificate of title.

19 (b) Any documents or instruments listed on the master
20 certificate of title for a planned community shall be deemed
21 deleted from the certificate of title for the individual units
22 of that planned community; provided that it shall not be



1 necessary for the assistant registrar to delete the notation of
2 the documents and instruments from the certificate of title for
3 the individual units.

4 In the event of a conflict between the documents and
5 instruments listed on the master certificate of title for a
6 planned community and the certificate of title for an individual
7 unit, the master certificate of title shall govern unless the
8 court determines that there has been an error in the preparation
9 of the master certificate of title. If the court determines
10 that there has been an error, the assistant registrar shall
11 correct the master certificate of title in accordance with the
12 determination of the court.

13 (c) Nothing in this section shall in any way be construed
14 to alter or otherwise affect the validity or order of priority
15 of documents and instruments registered prior to, in conjunction
16 with, or after the issuance of a master certificate of title.

17 **§501- Content of master certificate of title.** (a) A
18 master certificate of title shall not state or note a lien or
19 encumbrance that pertains solely or principally to the interest
20 of an individual owner in the common interest community,
21 including but not limited to:



- 1 (1) The interest of the individual unit owners of a
2 condominium project or planned community;
- 3 (2) An apartment lease, unit lease, or condominium
4 conveyance document;
- 5 (3) A deed or agreement of sale of an individual unit;
- 6 (4) A mortgage, deed of trust, or other lien or
7 encumbrance made by an individual owner on the
8 individual owner's interest in a common interest
9 community;
- 10 (5) A lien or notice of lien in favor of an association
11 against an individual owner's interest in a common
12 interest community;
- 13 (6) A judgment, decree, order of court, attachment, writ,
14 or other process against an individual owner's
15 interest in a common interest community;
- 16 (7) A mechanic's or materialman's lien upon an individual
17 owner's interest in a common interest community;
- 18 (8) A lis pendens, notice of pendency of action, notice,
19 affidavit, demand, certificate, execution, copy of
20 execution, officer's return, or other instrument
21 relating to an individual owner's interest in a common
22 interest community and required to be registered in



1 connection with the enforcement or foreclosure of any
2 lien, whether by way of power of sale pursuant to
3 chapter 667, or otherwise;

4 (9) A power of attorney not reserved in the governing
5 documents and given by an individual owner of an
6 interest in a common interest community or by the
7 vendor or vendee under an agreement of sale for the
8 sale of the owner's unit, a mortgagee or other lienor
9 having a mortgage or lien upon the owner's interest in
10 the common interest community, or another party
11 holding a claim or encumbrance against or an interest
12 in an individual owner's unit; or

13 (10) An instrument assigning, extending, continuing,
14 dissolving, discharging, releasing in whole or in
15 part, reducing, canceling, extinguishing, or otherwise
16 modifying or amending any of the foregoing
17 instruments.

18 (b) After issuance of the master certificate of title, the
19 following documents and instruments shall be noted on the master
20 certificate of title, and not on the owner's certificate of
21 title for the individual unit:



- 1 (1) Any additional governing documents, including but not
2 limited to any amendment or supplement to the existing
3 governing documents and any declaration of annexation
4 or deannexation;
- 5 (2) Any instrument evidencing the transfer of any special
6 developer or declarant rights under the governing
7 documents of the common interest community;
- 8 (3) Any easement, license, common element lease, or common
9 area lease encumbering or in favor of the registered
10 land of a condominium project;
- 11 (4) Any lien against the common elements of a condominium
12 project, but only to the extent permitted by chapter
13 514A or 514B or permitted by any predecessor
14 condominium statute during the period in which the
15 predecessor statute was in effect; and
- 16 (5) Any instrument assigning, extending, continuing,
17 dissolving, discharging, releasing in whole or in
18 part, reducing, canceling, extinguishing, or otherwise
19 modifying or amending any of the documents or
20 instruments noted on the master certificate of title."



1 SECTION 3. Section 501-20, Hawaii Revised Statutes, is
2 amended by adding five new definitions to be appropriately
3 inserted and to read as follows:

4 "Association" means the association of owners of a
5 condominium, a planned community association as defined under
6 section 607-14, or the association of a planned community
7 governed by chapter 421J.

8 "Common interest community" means a condominium created in
9 this State, whether established pursuant to chapter 514A or 514B
10 or any predecessor statute, or a planned community governed by
11 chapter 421J.

12 "Governing documents" means any documents or instruments
13 registered pursuant to this chapter that create or govern a
14 common interest community or its association as determined by
15 the assistant registrar. Examples of the term include: a
16 declaration of a planned community, as "declaration" is defined
17 under chapter 421J; the declaration establishing a condominium,
18 by whatever name denominated; the bylaws of an association of
19 owners of a condominium; a condominium map; a declaration of
20 merger of condominium phases; any instrument effecting a merger
21 of condominium phases; an assignment of developer's or



1 declarant's rights; and any amendment or supplement to or
2 restatement of any of the foregoing instruments.

3 "Master certificate of title" means a certificate of title
4 that:

5 (1) Lists the governing documents of a common interest
6 community;

7 (2) In the case of a condominium, describes the registered
8 land of the condominium and all easements, rights, and
9 interests appurtenant to the registered land of the
10 project as established or evidenced by instruments
11 registered in the office of the assistant registrar;
12 and

13 (3) Lists the documents and instruments of general
14 application to the registered land of the common
15 interest community as determined by the assistant
16 registrar; provided that a master certificate of title
17 need not list documents and instruments noted in
18 another master certificate of title, such as a master
19 declaration of covenants, conditions, and restrictions
20 governing multiple planned communities.

21 "Unit" means:



- 1 (1) In the case of a condominium, a condominium unit in
- 2 the condominium; and
- 3 (2) In the case of a planned community, a unit as that
- 4 term is defined in chapter 421J."

5 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY: Randy H. Bell

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S.B. NO. 2477

Report Title:

Land Court; Master Certificate of Title; Common Interest
Communities

Description:

Authorizes the use of a master certificate of title for common
interest communities to simplify and streamline the operation of
the land court.

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

