

---

---

# 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 the  
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 the  
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 in section 421J-2; 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 section 421J-2."

5        SECTION 4. New statutory material is underscored.

6        SECTION 5. This Act shall take effect on July 1, 2050.



**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. Effective 07/01/2050. (SD1)

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

