

JAN 24 2013

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# A BILL FOR AN ACT

RELATING TO TIME SHARE CONVEYANCES.

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

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                               **"CHAPTER**

5                               **TIME SHARE COMMISSIONERS OF DEEDS**

6           § -1 **Commissioners; appointment.** The governor may  
7 appoint commissioners who shall serve for four years from the  
8 date of the individual commissioner's respective appointment,  
9 unless removed by the governor.

10          § -2 **Oath and seal.** (a) Within three months of  
11 appointment, a commissioner shall:

12           (1) Cause an official seal to be prepared upon which shall  
13 appear the commissioner's name and the words  
14 "commissioner of deeds for Hawaii"; and

15           (2) Take and subscribe an oath to faithfully perform the  
16 duties of the commissioner's office; provided that the  
17 oath shall be taken before:

18           (A) A notary public in the State or any other state;



1 (B) Any officer of the United States diplomatic or  
2 consular service; provided that the oath may be  
3 taken before a resident in any foreign country or  
4 port if the resident is certified by the officer  
5 under the officer's seal or office; or

6 (C) Any person authorized by the law of any foreign  
7 country to take an acknowledgment or proof;  
8 provided that the acknowledgement or proof shall  
9 be accompanied by a certificate to the effect  
10 that the person giving the oath is duly  
11 authorized to do so and that the acknowledgement  
12 or proof is in a manner prescribed by the laws of  
13 the foreign country or a treaty or international  
14 agreement of the United States; provided further  
15 that the certificate may be issued by:

16 (i) A diplomatic or consular officer of the  
17 United States under the seal of the  
18 officer's office;

19 (ii) A diplomatic or consular officer of the  
20 foreign country under the seal of the  
21 officer's office with the signature or

1 facsimile of the signature of the diplomatic  
2 or consular officer; or

3 (iii) An apostille, in the case of a foreign  
4 country that is party to the Hague  
5 Convention of 5 October 1961 Abolishing the  
6 Requirement of Legalisation for Foreign  
7 Public Documents.

8 (b) A commissioner's oath of office, signature, and an  
9 impression of a commissioner's seal shall be transmitted to and  
10 filed with the office of the lieutenant governor.

11 (c) For purposes of this section, a diplomatic or consular  
12 officer includes any minister, consul, vice-consul, charge  
13 d'affaires, consular or commercial agent, or a vice-consular or  
14 vice-commercial agent.

15 § -3 **Powers; charges.** A commissioner shall have the  
16 authority in any foreign country, international waters, and in  
17 any possession, territory, or commonwealth of the United States,  
18 to administer oaths and take acknowledgement and proofs of  
19 execution of any deed, assignment of lease, apartment deed and  
20 ground lease, condominium conveyance document, mortgage, deed of  
21 trust, contract, power of attorney, or any other instrument or  
22 writing to be used or recorded in the State in connection with:



- 1 (1) A time share interest;
- 2 (2) Any property subject to a time share plan; or
- 3 (3) The operation of a time share plan that includes any
- 4 property located within the State;

5 provided that the instrument or writing is executed outside of  
6 the United States. Such oaths, acknowledgements, and proofs of  
7 execution shall be taken or made pursuant to the laws of the  
8 State including but not limited to sections 502-42, 502-43, and  
9 502-48, and shall be certified by the commissioner under the  
10 commissioner's official seal. The certification shall be  
11 endorsed on or attached to the instrument or writing and shall  
12 have the same effect as if made or taken in the State by a  
13 licensed notary public. Charges made by commissioners for  
14 services rendered shall be at rates authorized by any law  
15 governing similar services rendered by public notaries within  
16 the jurisdictions in which the services were performed.

17 § -4 **Records.** Each commissioner shall keep a record of  
18 every acknowledgement, oath, and proof of execution in a book of  
19 records. Each record shall set forth, at a minimum, the date of  
20 the acknowledgement, parties to the instrument, persons making  
21 the acknowledgments, and a memorandum as to the nature of the  
22 instrument acknowledged. For oaths and affidavits, the record

1 shall contain the names of the parties making the oath and  
2 affidavit, the date of the oath or affidavit, the nature of the  
3 instrument, and the date the oath was administered.

4 § -5 **Instructions.** The lieutenant governor shall  
5 prepare and forward to each commissioner a copy of this chapter  
6 and any necessary instructions and forms."

7 SECTION 2. This Act shall take effect upon its approval.

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INTRODUCED BY: *James Hendon*

**By Request**

# S.B. NO. 914

**Report Title:**

Time Shares; Conveyances

**Description:**

Creates a new chapter to authorize the governor to appoint commissioners to administer oaths, take acknowledgements, and proofs of execution outside of the United States in connection with the execution of conveyance documents relating to a timeshare interest, any property subject to a time share plan, or the operation of a time share plan covering any property located within the State.

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

