
A BILL FOR AN ACT

RELATING TO LAND COURT.

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

1 SECTION 1. The joint legislative investigative committee
2 established pursuant to Senate Concurrent Resolution No. 226,
3 regular session of 2007, identified serious shortcomings
4 relating to the bureau of conveyances. Act 120, Session Laws of
5 Hawaii 2009, was adopted in response to the findings of the
6 committee. Act 120 was intended to ease the backlog in land
7 court recording and registration by, among other things,
8 transferring fee simple time share interests from the land court
9 system to the regular system.

10 Act 120 requires that, upon presentation of a deed or any
11 other instrument affecting a fee time share interest, the
12 assistant registrar of the land court shall not file the same in
13 the land court. Rather, the assistant registrar shall:

14 (1) Update the certificate of title for all fee time share
15 interests in the time share plan;



1 (2) Record in the regular system the updated certificate
2 of title for each fee time share interest in the time
3 share plan;

4 (3) Record in the regular system the deed or other
5 instrument presented for recording; and

6 (4) Cancel the certificate of title for each fee time
7 share interest in the time share plan.

8 Once the certificate of title for a fee time share interest
9 is recorded, that time share interest is no longer subject to
10 the land court pursuant to chapter 501, Hawaii Revised Statutes.
11 From then on, all deeds and other instruments affecting the fee
12 time share interest shall be recorded in the regular system.
13 This process is known as deregistration of fee time share
14 interests.

15 Through Act 121, Session Laws of 2012, the legislature
16 found that the task of updating and recording the certificates
17 of title for all fee time share interests concurrently had
18 exceeded the capacity of the land court, particularly in light
19 of the approximately three-year backlog of land court recordings
20 and registration existing at the time that Act 120 took effect.



1 Accordingly, Act 121 was adopted to amend the
2 deregistration procedure by removing fee time share interests
3 from the land court system as of July 1, 2012. The assistant
4 registrar was charged with the obligation to certify the
5 certificates of title for all fee time share interests in the
6 ordinary course of business. This was intended to lighten the
7 load of the assistant registrar in the preparation and
8 certification of the certificates of title for fee time share
9 interests without delaying the removal of the fee time share
10 interests from the land court system.

11 However, the requirement that the assistant registrar
12 certify all of the then-remaining uncertified fee time share
13 certificates of title remained burdensome in light of resource
14 limitations and the demands of new transactions on the office of
15 the assistant registrar.

16 The purpose of this Act is to streamline the operations of
17 the office of the assistant registrar of the land court by
18 removing the requirement that the assistant registrar certify
19 pending certificates of title for fee time share interests, all
20 of which were removed from the land court system as of July 1,
21 2012.



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

4 "Certified fee time share interest certificate of title"
5 means a certificate of title for a fee time share interest that
6 has been updated and approved by the assistant registrar in
7 accordance with section 501-261(1).

8 "Pending fee time share interest certificate of title"
9 means a certificate of title issued for a fee time share
10 interest that has not been updated and approved by the assistant
11 registrar in accordance with section 501-261(1)."

12 SECTION 3. Section 501-261, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§501-261 Deregistration of fee time share interests. The
15 certificate of title for each fee time share interest shall be
16 canceled effective as of the date and time of deregistration of
17 such fee time share interest. Notwithstanding the provisions of
18 section 501-261 in existence prior to July 1, 2012, a fee time
19 share interest for which a certificate of title was not recorded
20 in the bureau of conveyances pursuant to chapter 502 and part II



1 of this chapter prior to July 1, 2012, shall be deregistered on
2 July 1, 2012, at 12:01 a.m.

3 (1) [~~Beginning on~~ From and after July 1, 2012, [~~and~~
4 ~~continuing for so long as shall be reasonably~~
5 ~~necessary in the ordinary course of business,~~] the
6 assistant registrar shall be authorized to, but shall
7 not be required to:

8 (A) Note on the certificate of title for each fee
9 time share interest all documents and instruments
10 affecting the fee time share interest:

11 (i) That were or are registered as of a date and
12 time prior to the date and time of
13 deregistration of the fee time share
14 interest; and

15 (ii) That were not yet noted on the certificate
16 of title of the fee time share interest as
17 of the date and time of deregistration
18 thereof; and

19 (B) Certify each certificate of title.

20 (2) Section 501-196 shall apply to a certificate of title
21 updated pursuant to paragraph (1) upon approval of the



1 same by the assistant registrar, which approval shall
2 be evidenced by a certification of the assistant
3 registrar endorsed upon the certificate of title. A
4 certificate of title for a fee time share interest,
5 including but not limited to a certificate of title
6 recorded prior to July 1, 2012, pursuant to part II of
7 this chapter 501, shall not be considered completed or
8 approved, and shall be subject to modification by the
9 assistant registrar, at any time prior to
10 certification thereof by the assistant registrar.
11 Subsequent to the certification, the certificate of
12 title for a fee time share interest may only be
13 modified pursuant to section 501-196 or as otherwise
14 provided in this chapter.

- 15 (3) Upon certification of the certificate of title for a
16 fee time share interest by the assistant registrar,
17 the assistant registrar shall mark the certificate of
18 title "canceled", note the cancellation of the
19 certificate of title in the registration book, and
20 notify the court and the state surveyor of the
21 cancellation. The registrar shall thereupon be



1 authorized to file a record of the cancellation in the
2 application or consolidation file, and the state
3 surveyor shall then be authorized to annotate the land
4 court map or maps by identifying thereon the
5 deregistered land and noting thereon the bureau of
6 conveyances document number of the canceled
7 certificate. The assistant registrar is authorized to
8 adopt such procedures, if any, as it may deem
9 appropriate to reflect the cancellation of the pending
10 fee time share interest certificates of title and the
11 state surveyor shall be authorized to annotate the
12 land court map or maps by identifying thereon the
13 deregistration of land covered by pending fee time
14 share certificates of title. Regardless of the date
15 upon which any such administrative acts are performed,
16 the cancellation of the certificate of title for a fee
17 time share interest shall be effective as of the date
18 and time of deregistration of that fee time share
19 interest.

20 (4) If only part of the land described in the certificate
21 of title consists of a fee time share interest, then



1 upon the petition of the registered owner of that
2 portion of the registered land not constituting a fee
3 time share interest, a new certificate of title shall
4 be issued to such owner for that portion of the
5 registered land not constituting a fee time share
6 interest. If registered land is held in the
7 condominium form of ownership, then for purposes of
8 this subsection each condominium apartment or
9 condominium unit for which a separate certificate of
10 title has been issued shall be treated as if it were a
11 separate parcel of registered land.

12 (5) Except as provided in paragraph (4), no order of court
13 shall be required prior to or in connection with the
14 performance of any of the foregoing actions[-] or to
15 reflect or effect the cancellation of the certificate
16 of title for a fee time share interest or otherwise to
17 reflect or effect the withdrawal of the fee time share
18 interest from the operation of this chapter."

19 SECTION 4. Section 501-262, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:



1 "(b) Neither voluntary deregistration of land other than a
2 fee time share interest nor the mandatory deregistration of any
3 fee time share interest pursuant to part II of this chapter,
4 whether by recordation of a certificate of title in the bureau
5 of conveyances prior to July 1, 2012, or by operation of law
6 thereafter, shall disturb the effect of any proceedings in the
7 land court where the question of title has been determined. All
8 proceedings had in connection with the registration of title
9 that relate to the settlement or determination of title before
10 ~~[a certificate of title for land other than a fee time share~~
11 ~~interest is recorded in the bureau of conveyances pursuant to~~
12 ~~chapter 502 and part II of this chapter or a certificate of~~
13 ~~title for a fee time share interest is certified]~~ the date and
14 time of deregistration, and all provisions of this chapter that
15 relate to the status of the title, shall have continuing force
16 and effect with respect to the period of time that title
17 remained under the land court system. Those provisions giving
18 rise to a right of action for compensation from the State,
19 including any limits on and conditions to the recovery of
20 compensation and the State's rights of subrogation with respect
21 thereto, shall also continue in force and effect with respect to



1 the period of time that title remained under the land court
2 system."

3 SECTION 5. Section 501-263, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§501-263 Effect of deregistration in specific cases.

6 Notwithstanding section 501-262(a)(3), the following documents,
7 instruments, and papers need not be registered pursuant to this
8 chapter to be effective and shall be recorded in the bureau of
9 conveyances pursuant to chapter 502:

10 (1) Any document, instrument, or paper assigning,
11 extending, continuing, dissolving, discharging,
12 releasing in whole or in part, reducing, canceling,
13 extinguishing, or otherwise modifying or amending any
14 of the following documents, instruments, or papers
15 that have been registered pursuant to this chapter and
16 that pertain to deregistered land:

17 (A) A mortgage;

18 (B) An agreement of sale for the sale of a fee time
19 share interest or interest in other deregistered
20 land. After the [~~recording of the certificate~~
21 ~~of title,~~] date and time of deregistration of a



1 fee time share interest or interest in other
2 deregistered land, the interest in any
3 deregistered land covered by [any] the agreement
4 of sale shall be subject to section 502-85 and
5 shall not be subject to section 501-101.5;

6 (C) A correction deed, correction mortgage, or other
7 document, instrument, or paper correcting a
8 document, instrument, or paper registered
9 pursuant to this chapter;

10 (D) A lien or claim of lien on a fee time share
11 interest held or claimed by a time share owners
12 association, an association of apartment owners,
13 or other homeowners' association or a lien or
14 claim on an interest in other deregistered land
15 held by a lienor or person claiming a lien;

16 (E) A lease that demises a fee time share interest or
17 interest in other deregistered land;

18 (F) An order of court, attachment, writ, or other
19 process against a fee time share interest or
20 interest in other deregistered land;



- 1 (G) A mechanic's or materialman's lien or other lien
2 upon a fee time share interest or interest in
3 other deregistered land;
- 4 (H) A lis pendens or notice of pendency of action,
5 notice, affidavit, demand, certificate,
6 execution, copy of execution, officer's return,
7 or other instrument relating to a fee time share
8 interest or interest in other deregistered land
9 and otherwise required or permitted to be
10 recorded or registered in connection with the
11 enforcement or foreclosure of any lien, whether
12 by way of power of sale pursuant to chapter 667
13 or otherwise; or
- 14 (I) A power of attorney given by the owner of a fee
15 time share interest or interest in other
16 deregistered land or the vendor or vendee under
17 an agreement of sale for the sale of a fee time
18 share interest or interest in other deregistered
19 land, a mortgagee or other lienor having a
20 mortgage or lien upon a fee time share interest
21 or interest in other deregistered land, or



- 1 another party holding a claim or encumbrance
2 against or an interest in a fee time share
3 interest or interest in other deregistered land;
- 4 (2) A lis pendens or notice of pendency of action, notice,
5 affidavit, demand, certificate, execution, copy of
6 execution, officer's return, or other instrument
7 relating to a fee time share interest or interest in
8 other deregistered land and otherwise required or
9 permitted to be recorded or registered in connection
10 with the enforcement or foreclosure of any lien,
11 whether by way of power of sale pursuant to chapter
12 667 or otherwise; and
- 13 (3) Any declaration annexing property to, any declaration
14 deannexing property from, any amendment or supplement
15 to, correction of, or release or termination of, any
16 of the following documents, instruments, or papers
17 that have been registered pursuant to this chapter and
18 that pertain to deregistered land:
- 19 (A) A declaration of covenants, conditions,
20 restrictions, or similar instrument, by whatever
21 name denominated, establishing or governing a



1 time share plan, or the bylaws of a time share
2 owners association, notice of time share plan, or
3 other time share instrument;

4 (B) A declaration of condominium property regime or
5 similar declaration by whatever name denominated,
6 the bylaws of the association of apartment
7 owners, the condominium map, any declaration of
8 merger and any instrument effecting a merger;
9 provided that if only some of the condominium
10 apartments are included in the time share plan,
11 then it shall be necessary to register, and to
12 note on the certificate of title for any
13 apartment not included in the time share plan:

14 (i) Any declaration annexing property to the
15 condominium property regime;

16 (ii) Any declaration deannexing property from the
17 condominium property regime;

18 (iii) Any instrument effecting a merger of two or
19 more condominium projects or two or more
20 phases of a condominium project; and



1 (iv) Any document, instrument, or paper amending,
2 supplementing, correcting, releasing, or
3 terminating any of the documents listed in
4 subparagraph (B) (i) through (iii), the
5 declaration of condominium property regime,
6 the bylaws of the association of apartment
7 owners, the condominium map, or any
8 declaration of merger; and
9 (C) A declaration of covenants, conditions,
10 restrictions, or similar instrument, by whatever
11 name denominated, the bylaws of any homeowners
12 association, any declaration of annexation or
13 deannexation, any amendments and supplements
14 thereto, and any cancellation or extinguishment
15 thereof, any declaration of merger and any
16 instrument effecting a merger; provided that if
17 only some of the parcels of land covered by the
18 declaration constitutes deregistered land, and if
19 one or more of the remaining parcels constitute
20 registered land, then it shall be necessary to



1 register, and to note on the certificate of title
2 for any registered land:

- 3 (i) Any declaration annexing property to the
- 4 declaration;
- 5 (ii) Any declaration deannexing property from the
- 6 operation of the declaration; and
- 7 (iii) Any document, instrument, or paper amending,
- 8 supplementing, correcting, releasing, or
- 9 terminating any of the documents listed in
- 10 subparagraph (C) (i) or (ii), the declaration
- 11 of covenants, conditions, restrictions, or
- 12 the bylaws of the homeowners association."

13 SECTION 6. Section 501-264, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§501-264 Chain of title of deregistered land. [~~(a)~~—A
16 ~~certificate of title for land other than a fee time share~~
17 ~~interest recorded in the bureau of conveyances pursuant to~~
18 ~~chapter 502 and part II of this chapter, or certified by the~~
19 ~~assistant registrar in the case of a fee time share interest,~~
20 ~~shall constitute a new chain of record title in the registered~~
21 ~~owner of any estate or interest as shown on the certificate of~~



1 ~~title so recorded or certified, subject only to the following:]~~

2 (a) The chain of record title in the registered owner of any
3 estate or interest in deregistered land shall, as of the date
4 and time of deregistration, be subject only to the following and
5 to the items described in subsection (d):

6 (1) In the case of land other than a fee time share
7 interest, the estates, mortgages, liens, charges,
8 instruments, documents, and papers noted on the
9 certificate of title recorded in the bureau of
10 conveyances pursuant to chapter 502 and part II of
11 this chapter;

12 (2) In the case of a fee time share interest covered by a
13 certified fee time share interest certificate of
14 title, the estates, mortgages, liens, charges,
15 instruments, documents, and papers noted on the
16 certified fee time share interest certificate of
17 title;

18 (3) In the case of a fee time share interest covered by a
19 pending fee time share interest certificate of title,
20 the estates, mortgages, liens, charges, instruments,
21 documents, and papers noted or deemed to be noted on



1 the pending fee time share interest certificate of
2 title, as set forth in subsection (b).

3 (b) The following shall, for purposes of part II of this
4 chapter, be deemed to be noted on the pending fee time share
5 interest certificate of title for a given fee time share
6 interest:

7 (1) The estates, mortgages, liens, charges, instruments,
8 documents, and papers noted in the last certificate of
9 title certified by the assistant registrar for the
10 registered land of that fee time share interest; and

11 (2) The estates, mortgages, liens, charges, instruments,
12 documents, and papers registered with respect to the
13 registered land of that fee time share interest, which
14 registration occurred:

15 (A) After the date of certification of the last
16 certified certificate of title for the registered
17 land of the fee time share interest; and

18 (B) Prior to July 1, 2012. This includes but is not
19 limited to any estates, liens, charges,
20 covenants, conditions, easements, restrictions,
21 agreements, reservations, limitations, interests,



1 or other continuing provisions contained or
2 reserved in the deed conveying the fee time share
3 interest to the registered owner, whether or not
4 identified in the pending fee time share interest
5 certificate of title.

6 (c) Nothing in subsection (b) is intended to alter the
7 effect of any instruments, documents, or papers identified in
8 subsection (b) (2) on the items noted in the certificate of title
9 described in subsection (b) (1).

10 (d) As of the date and time of deregistration, the chain
11 of title for deregistered land shall be subject only to the
12 items described in subsection (a) and, in the case of a fee time
13 share interest covered by a pending fee time share interest
14 certificate of title, in subsection (b), and to the following:

15 (1) The estates, mortgages, liens, charges, instruments,
16 documents, and papers [~~noted on the certificate of~~
17 ~~title so recorded or certified,~~]:

18 (A) Noted on the certificate of title recorded in the
19 bureau of conveyances pursuant to chapter 502 and
20 part II of this chapter, in the case of land
21 other than a fee time share interest;



- 1 (B) Noted on the certified fee time share interest
2 certificate of title, in the case of a fee time
3 share interest for which the assistant registrar
4 issued a certified fee time share interest
5 certificate of title; or
- 6 (C) Noted or deemed to be noted on the pending fee
7 time share interest certificate of title, in the
8 case of all other fee time share interests;
- 9 (2) Liens, claims, or rights arising or existing under the
10 laws or Constitution of the United States, which the
11 statutes of this State cannot require to appear of
12 record in the registry; provided that notices of liens
13 for internal revenue taxes payable to the United
14 States, and certificates affecting the liens, shall be
15 deemed to fall within this paragraph only if the same
16 are recorded in the bureau of conveyances as provided
17 by chapter 505;
- 18 (3) Unpaid real property taxes assessed against the land
19 and improvements covered by the certificate of title
20 for the deregistered land [as recorded or certified],
21 with interest, penalties, and other additions to the



1 tax, which, unless a notice is filed and registered as
2 provided by county real property tax ordinance, shall
3 be for the period of three years from and after the
4 date on which the lien attached, and if proceedings
5 for the enforcement or foreclosure of the tax lien are
6 brought within the period, until the termination of
7 the proceedings or the completion of the tax sale;

8 (4) State tax liens, if the same are recorded in the
9 bureau of conveyances as provided by section 231-33;

10 (5) Any public highway, or any private way laid out under
11 the provisions of law, when the certificate of title
12 does not state that the boundary of the way has been
13 determined;

14 (6) Any lease, coupled with occupancy, for a term not
15 exceeding one year; provided that the priority of the
16 unrecorded lease shall attach only at the date of the
17 commencement of the unrecorded lease and expire one
18 year from the date or sooner if so expressed;

19 (7) Any liability to assessments for betterments, or
20 statutory liability that may attach to land as a lien
21 prior to or independent of, the recording or



1 registering of any paper of the possibility of a lien
2 for labor or material furnished in the improvement of
3 the land; provided that the priority of any liability
4 and the lien therefor (other than for labor and
5 material furnished in the improvement of the land,
6 which shall be governed by section 507-43) shall cease
7 and terminate three years after the liability first
8 accrues unless notice thereof, signed by the officer
9 charged with collection of the assessments or
10 liability, setting forth the amount claimed, the date
11 of accrual, and the land affected, is recorded in the
12 bureau of conveyances pursuant to chapter 502 within
13 the three-year period; and provided further that if
14 there are easements or other rights, appurtenant to a
15 parcel of deregistered land, which for any reason have
16 failed to be deregistered, the easements or rights
17 shall remain so appurtenant notwithstanding the
18 failure, and shall be held to pass with the
19 deregistered land until cut off or extinguished in any
20 lawful manner;



- 1 (8) The possibility of reversal or vacation of the decree
- 2 of registration upon appeal;
- 3 (9) Any encumbrance not required to be registered as
- 4 provided in sections 501-241 to 501-248 and relating
- 5 to a leasehold time share interest or leasehold
- 6 interest in deregistered land; [~~and~~]
- 7 (10) Child support liens that are created pursuant to order
- 8 or judgment filed through judicial or administrative
- 9 proceeding in this State or in any other state, the
- 10 recording of which shall be as provided by chapter
- 11 576D[-]; and
- 12 (11) Money judgments, orders, or decrees of a Hawaii state
- 13 court or the United States District Court for the
- 14 District of Hawaii, if the same are recorded in the
- 15 bureau of conveyances; provided that only the monetary
- 16 lien created by the recordation shall affect the land;
- 17 provided further that no other provision of a
- 18 judgment, order, or decree shall affect the land
- 19 unless otherwise registered in compliance with this
- 20 chapter.



1 [~~(b)~~] (e) For purposes of this section, an encumbrance
2 shall be deemed sufficiently noted on a certificate of title if
3 the notation:

4 (1) References a document by name or number that contains
5 an encumbrance; and

6 (2) Indicates that the referenced document contains an
7 encumbrance to which the deregistered land is subject.

8 [~~(e)~~] (f) All instruments, documents, and papers [~~noted~~]:

9 (1) Noted on a certificate of title recorded in the bureau
10 of conveyances pursuant to chapter 502 and part II of
11 this chapter (in the case of land other than a fee
12 time share interest);

13 (2) Noted on a certified fee time share interest
14 certificate of title; or

15 (3) Noted or deemed to be noted on a pending fee time
16 share interest certificate title,

17 shall have the same force and effect as if they had been
18 recorded in the bureau of conveyances pursuant to chapter 502 as
19 of the date, hour, and minute of reception noted on the
20 certificate of title pursuant to section 501-107 [~~r~~] or otherwise



1 entered or required to be entered in the record of the assistant
2 registrar pursuant to section 501-107; provided that:

- 3 (1) No instrument, document, or paper shall have any
4 greater or other effect after the certificate of title
5 is recorded in the bureau of conveyances pursuant to
6 chapter 502 and part II of this chapter, as
7 constructive notice or otherwise, than it had or
8 acquired at the time it was registered pursuant to
9 this chapter or made; and
- 10 (2) Nothing in this part shall be construed as giving any
11 greater or other effect, as constructive notice or
12 otherwise, to any instrument, document, or paper
13 recorded in the bureau of conveyances pursuant to
14 chapter 502 prior to the [~~recording of the~~
15 ~~certificate of title in the bureau of conveyances~~
16 ~~pursuant to chapter 502 and part II of this chapter as~~
17 ~~to~~] date and time of deregistration of any registered
18 land, than was provided by the laws of this State
19 (including this chapter and other laws regarding
20 registered land) in effect at the time the instrument,
21 document, or paper was recorded.



1 ~~[(d)]~~ (g) If a certificate of title for:

2 (1) Land other than a fee time share interest is recorded

3 in the bureau of conveyances pursuant to chapter 502

4 and part II of this chapter;

5 (2) For a fee time share interest certified by the

6 assistant registrar; or

7 (3) A fee time share interest that has not been certified

8 by the assistant registrar,

9 relates to more than one fee time share interest or more than

10 one interest in other deregistered land, then ~~[subsection]~~

11 subsections (a) through and including (d) shall apply to each

12 interest separately and only those items described in

13 ~~[subsection]~~ subsections (a) through and including (d) that

14 encumbered a particular interest ~~[prior to recordation of the~~

15 ~~certificate of title]~~ as of the date and time of deregistration

16 of that interest will continue to encumber that interest after

17 the ~~[recordation.]~~ date and time of deregistration."

18 SECTION 7. Statutory material to be repealed is bracketed

19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect on July 1, 2016.



Report Title:

Fee Time Share Interests; Land Court; Bureau of Conveyances;
Deregistration

Description:

Streamlines the operations of the Office of the Assistant Registrar of the Land Court by removing the requirement that the Assistant Registrar certify pending certificates of title for fee time share interests. (HB2090 HD1)

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

