

# S.B. NO. 1129

JAN 28 2015

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## A BILL FOR AN ACT

RELATING TO COMMISSIONERS OF DEEDS.

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

1           SECTION 1. Chapter 503B, Hawaii Revised Statutes, is  
2 amended by adding four new sections to be appropriately  
3 designated and to read as follows:

4           "§503B- Rules. The lieutenant governor, subject to  
5 chapter 91, may prescribe such rules as the lieutenant governor  
6 deems advisable concerning the administration of this chapter,  
7 the appointment and duties of commissioners of deeds and such  
8 other measures as may be necessary to prevent the fraudulent use  
9 of a document after placement of the commissioner of deeds'  
10 seal. The rules shall have the force and effect of law.

11           §503B- Fees and administrative fines. (a) The  
12 lieutenant governor shall charge and collect the following fees,  
13 which amounts may be adjusted by adopting rules pursuant to  
14 chapter 91, for:

15           (1) Application for commissioner of deeds commission, \$10;  
16           (2) Application for renewal of commissioner of deeds  
17           commission, \$10;

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- 1        (3) Application for restoration of forfeited commission,
- 2            \$10;
- 3        (4) Application for reinstatement of suspended commission,
- 4            \$10;
- 5        (5) Issuing the original commission, \$40; and
- 6        (6) Renewing the commission, \$40;
- 7        (7) Restoration of forfeited commission, \$60;
- 8        (8) Commission name change, \$10.

9        These fees may be adjusted by adopting rules pursuant to  
10 chapter 91.

11        (b) The lieutenant governor may impose and collect the  
12 following administrative fines for the commissioner of deeds'  
13 failure to do the following, which amounts may be adjusted by  
14 adopting rules pursuant to chapter 91:

- 15        (1) Maintain an official seal of one type, either a single  
16 engraved seal or a single rubber stamp facsimile seal,  
17 on which shall be inserted the name of the  
18 commissioner of deeds, the commission number of the  
19 commissioner, and the words "commissioner of deeds"  
20 and "State of Hawaii" only, \$20;
- 21        (2) Surrender the commissioner of deeds' seal and  
22 certificate to the lieutenant governor within ninety

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1 days of resignation, removal from office, or the  
2 expiration of a term without renewal, \$200;

3 (3) Authenticate every acknowledgment or jurat with a  
4 certificate that shall be signed and dated by a  
5 commissioner and in a form prescribed by the  
6 lieutenant governor, \$500;

7 (4) Record all of the commissioner of deeds' transactions  
8 as prescribed by section 503B- and applicable  
9 rules, \$200;

10 (5) Surrender the commissioner of deeds' record books to  
11 the lieutenant governor within ninety days of the end  
12 date of the commission, resignation, or removal from  
13 office, \$500; and

14 (6) Notify the lieutenant governor within ten days after  
15 loss, misplacement, or theft of the commissioner's  
16 seal, stamp, or any record book, inform the  
17 appropriate law enforcement agency in the case of  
18 theft, and deliver a copy of the law enforcement  
19 agency's report of the theft to the lieutenant  
20 governor, \$20.

21 The foregoing moneys collected by the lieutenant governor  
22 pursuant to this section shall be deposited into the  
23 commissioner of deeds revolving fund established by section

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1 503B- , except that if that fund is terminated, the foregoing  
2 moneys shall thereafter be deposited with the director of  
3 finance to the credit of the general fund.

4 §503B- Commissioner of deeds revolving fund. (a) There  
5 is established in the state treasury the commissioner of deeds  
6 special revolving fund into which shall be deposited:

7 (1) All fees, administrative fines, charges, or other  
8 payments received pursuant to section 503B- ;

9 (2) Penalties and fines for violations of section 503B-

10 (3) Appropriations made for deposit into the commissioner  
11 of deeds revolving fund; and

12 (4) Interest earned on money in the commissioner of deeds  
13 revolving fund.

14 (b) The commissioner of deeds revolving fund shall be  
15 administered by the office of the lieutenant governor.

16 Notwithstanding any law to the contrary, moneys in the  
17 commissioner of deeds revolving fund shall be used for personnel  
18 costs, the acquisition of equipment, and operating and  
19 administrative costs deemed necessary by the office of the  
20 lieutenant governor to administer this chapter. The moneys in  
21 the fund may also be used to train personnel as the lieutenant  
22 governor deems necessary, and for any other activity related to  
23 commissioners of deeds.

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1            §503B- Immunity. (a) The lieutenant governor and  
2 employees of the office of the lieutenant governor shall be  
3 immune from liability for good faith conduct under this chapter.

4            (b) Any law to the contrary notwithstanding, nothing  
5 contained in this chapter shall be construed to constitute a  
6 waiver of any immunity of the State and no action or failure to  
7 act under this chapter shall be construed to create any  
8 liability on the State, its officers or employees for the  
9 recovery of any damages caused by any action or failure to act."

10            SECTION 3. Section 36-27, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12            "(a) Except as provided in this section, and  
13 notwithstanding any other law to the contrary, from time to  
14 time, the director of finance, for the purpose of defraying the  
15 prorated estimate of central service expenses of government in  
16 relation to all special funds, except the:

- 17            (1) Special out-of-school time instructional program fund
- 18                    under section 302A-1310;
- 19            (2) School cafeteria special funds of the department of
- 20                    education
- 21            (3) Special funds of the University of Hawaii;
- 22            (4) State educational facilities improvement special
- 23                    fund;

- 1 (5) Convention center enterprise special fund under
- 2 section 201B-8;
- 3 (6) Special funds established by section 206E-6;
- 4 (7) Housing loan program revenue bond special fund;
- 5 (8) Housing program bond special fund;
- 6 (9) Aloha Tower fund created by section 206J-17;
- 7 (10) Funds of the employees' retirement system created
- 8 by section 88-109;
- 9 (11) Hawaii hurricane relief fund established under
- 10 chapter 431P;
- 11 (12) Hawaii health systems corporation special funds and
- 12 the subaccounts of its regional system boards;
- 13 (13) Tourism special fund established under section
- 14 201B-11;
- 15 (14) Universal service fund established under section
- 16 269-42;
- 17 (15) Emergency and budget reserve fund under section
- 18 328L-3;
- 19 (16) Public schools special fees and charges fund under
- 20 section 302A-1130;
- 21 (17) Sport fish special fund under section 187A-9.5;
- 22 (18) Glass advance disposal fee established by section
- 23 342G-82;

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- 1 (19) Center for nursing special fund under section  
2 304A-2163;
- 3 (20) Passenger facility charge special fund established  
4 by section 261-5.5;
- 5 (21) Court interpreting services revolving fund under  
6 section 607-1.5;
- 7 (22) Hawaii cancer research special fund;
- 8 (23) Community health centers special fund;
- 9 (24) Emergency medical services special fund;
- 10 (25) Rental motor vehicle customer facility charge  
11 special fund established under section 261-5.6;
- 12 (26) Shared services technology special fund under section  
13 27-43;
- 14 (27) Automated victim information and notification system  
15 special fund established under section 353-136; [~~and~~]
- 16 [†] (28) [†] Deposit beverage container deposit special fund  
17 under section 342G-104 [7]; and
- 18 (29) Commissioner of deeds revolving fund under section  
19 503B-\_\_\_\_\_;
- 20 shall deduct five per cent of all receipts of all special funds,  
21 which deduction shall be transferred to the general fund of the  
22 State and become general realizations of the State. All  
23 officers of the State and other persons having power to allocate

1 or disburse any special funds shall cooperate with the director  
2 in effecting these transfers. To determine the proper revenue  
3 base upon which the central service assessment is to be  
4 calculated, the director shall adopt rules pursuant to chapter  
5 91 for the purpose of suspending or limiting the application of  
6 the central service assessment of any fund. No later than  
7 twenty days prior to the convening of each regular session of  
8 the legislature, the director shall report all central service  
9 assessments made during the preceding fiscal year."

10 SECTION 5. Section 36-30, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) Each special fund, except the:

- 13 (1) Transportation use special fund established by section  
14 261D-1;
- 15 (2) Special out-of-school time instructional program fund  
16 under section 302A-1310;
- 17 (3) School cafeteria special funds of the department of  
18 education;
- 19 (4) Special funds of the University of Hawaii;
- 20 (5) State educational facilities improvement special fund;
- 21 (6) Special funds established by section 206E-6;
- 22 (7) Aloha Tower fund created by section 206J-17;



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- 1 (8) Funds of the employees' retirement system created by  
2 section 88-109;
- 3 (9) Hawaii hurricane relief fund established under section  
4 431P-2;
- 5 (10) Convention center enterprise special fund established  
6 under section 201B-8;
- 7 (11) Hawaii health systems corporation special funds and  
8 the subaccounts of its regional system boards;
- 9 (12) Tourism special fund established under section  
10 201B-11;
- 11 (13) Universal service fund established under section  
12 269-42;
- 13 (14) Emergency and budget reserve fund under section  
14 328L-3;
- 15 (15) Public schools special fees and charges fund under  
16 section 302A-1130;
- 17 (16) Sport fish special fund under section 187A-9.5;
- 18 (17) Center for nursing special fund under section  
19 304A-2163;
- 20 (18) Passenger facility charge special fund established in  
21 section 261-5.5;
- 22 (19) Court interpreting services revolving fund under  
23 section 607-1.5;

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- 1 (20) Hawaii cancer research special fund;
- 2 (21) Community health centers special fund;
- 3 (22) Emergency medical services special fund;
- 4 (23) Rental motor vehicle customer facility charge special
- 5 fund established under section 261-5.6;
- 6 (24) Shared services technology special fund under section
- 7 27-4.3;
- 8 (25) Nursing facility sustainability program special fund,
- 9 under Act 156, Session Laws of Hawaii 2012;
- 10 (26) Automated victim information and notification system
- 11 special fund established under section 353-136; ~~and~~
- 12 (27) Hospital sustainability program special fund under
- 13 Act 217, Session Laws of Hawaii 2012~~[7]~~; and
- 14 (28) Commission of deeds revolving fund under section
- 15 503B-\_\_\_\_,

16 shall be responsible for its pro rata share of the

17 administrative expenses incurred by the department responsible

18 for the operations supported by the special fund concerned."

19 SECTION 4. Section 503B-1, Hawaii Revised Statutes, is

20 amended to read as follows:

21 "[~~4~~] **§503B-1** [~~1~~] **Commissioners; appointment.** The lieutenant

22 governor may appoint commissioners who shall serve for four

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1 years from the date of the individual commissioner's respective  
2 appointment, unless removed by the lieutenant governor."


3 SECTION 5. Section 503B-8, Hawaii Revised Statutes, is  
4 amended by amending subsection (a) to read as follows:

5 "(a) Each commissioner forthwith and before entering upon  
6 the duties of the commissioner's office shall execute at the  
7 commissioner's own expense an official surety bond or deposit  
8 with the lieutenant governor a cash bond, which in either case  
9 shall be in the sum of [~~\$1,000.~~] \$10,000. Each bond shall be  
10 approved by the office of the lieutenant governor."

11 SECTION 6. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

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

14  
15  
16  
17

INTRODUCED BY: 

BY REQUEST

**Report Title:**

Commissioners of Deeds; Rules; Fees

**Description:**

Adds new sections to chapter 503B, Hawaii Revised Statutes to clarify the Lieutenant Governor's rulemaking authority, authority to assess and collect fees and administrative fines, and to establish a revolving fund into which the fees and administrative fines are to be deposited. Amends chapter 503B, Hawaii Revised Statutes, to clarify that the Lieutenant Governor is responsible for the program and increases the surety bond requirement from \$1,000 to \$10,000.

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

## JUSTIFICATION SHEET

DEPARTMENT: Office of the Lieutenant Governor

TITLE: A BILL FOR AN ACT RELATING TO COMMISSIONERS OF DEEDS.

PURPOSE: Adds new sections to chapter 503B, Hawaii Revised Statutes (HRS) to clarify the Lieutenant Governor's rulemaking authority, authority to assess and collect fees and administrative fines, and establishes a revolving fund into which the fees and administrative fines are to be deposited.

Amends chapter 503B, HRS, to clarify the Lieutenant Governor is responsible for the program and increases the surety bond requirement from \$1,000 to \$10,000.

MEANS: Adds new sections and makes amendments to Chapter 503B, HRS.

JUSTIFICATION: Act 277, Session Laws of Hawaii 2013, established the Commissioners of Deeds program within the Office of the Lieutenant Governor.

Although much progress was made to implement the program, a working group comprised of the Bureau of Conveyances, Attorney General's office, the Department of Commerce and Consumer Affairs, and the time share industry discovered that additional legislation and authorization is necessary prior to implementation.

Impact on the public: The proposed bill seeks to clarify section 503B, HRS by amending and adding new sections.

The current process is cumbersome, expensive and can be a detriment to Hawaii time share property and business.

The Commissioners of Deeds program if properly implemented streamlines the process for consumers located outside the United States who wish to purchase time share property in Hawaii.

The general public will experience a less cumbersome process.

Impact on the department and other agencies:  
The proposed changes will allow the Office of the Lieutenant Governor to responsibly implement and administer the Commissioner of Deeds program.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.