

STAND. COM. REP. NO.

2983

Honolulu, Hawaii

MAR 22 2016

RE: H.B. No. 2090
H.D. 2
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred H.B. No. 2090, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO LAND COURT,"

begs leave to report as follows:

The purpose and intent of this measure is to streamline 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.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources, American Resort Development Association Hawaii, and Wyndham Vacation Ownership. Your Committee received comments on this measure from one individual.

Your Committee finds Hawaii's land court law, originally enacted in 1903, was intended to establish clear title to a parcel of land through a court proceeding by requiring the Land Court to determine the lawful owner of a parcel of real estate, then issue a certificate of title to that owner. From then on, an encumbrance could not affect title without first being filed in the Land Court, nor could a deed to convey title become effective without first being filed. Although the Land Court system worked well for a number of years, the eventual introduction of



condominium projects and time share plans into the Land Court system created problems.

Your Committee further finds that in 2008, a legislative investigative committee identified serious shortcomings related to the Bureau of Conveyances. In 2009, legislation was passed to ease the backlog in Land Court recording and registration by, among other things, transferring fee simple time share interests from the Land Court system to the regular system. In 2012, additional legislation removed fee time share interests from the Land Court system, as of July 1, 2012. This was intended to lighten the load of the Assistant Registrar in the preparation and certification of the certificates of title for fee time share interests without delaying the removal of fee time share interests from the Land Court system.

However, the requirement for the Assistant Registrar to certify all the remaining uncertified fee time share certificates of title remains burdensome on the Assistant Registrar, due to resource limitations and the demands of new transactions. Accordingly, this measure streamlines the operations of the Assistant Registrar of the Land Court by removing the requirement that the Assistant Registrar certify all pending or otherwise uncertified certificates of title for fee time share interests, all of which were removed from the Land Court system as of July 1, 2012.

Your Committee notes that interested stakeholders have been working on consensus language to address certain concerns raised in testimony, including whether there are any conveyances that may have occurred between the date of the last certified certificate of title and the July 1, 2012, date of deregistration. Your Committee finds that the interested stakeholders have reached an agreement on consensus language designed to address these potential gaps and amendments to this measure and that incorporating this consensus language is therefore necessary.

Accordingly, your Committee has amended this measure by:

- (1) Changing all references to the phrase "pending fee time share interest certificate of title" to "uncertified fee time share interest certificate of title";



- (2) Permitting a party in interest to submit a written request and obtain a certified transfer certificate of title;
- (3) Requiring the Assistant Registrar to note on the certificate of title for each fee time share interest all documents and instruments affecting the fee time share interest that were not yet noted on the certificate of title as of the earlier of: the date and time of deregistration; or the date and time of cancellation of the certificate of title;
- (4) Clarifying that an uncertified fee time share interest certificate of title has the same force and effect as a certified fee time share interest certificate of title but specifying that the Assistant Registrar has the right to correct and complete the uncertified fee time share interest certificate of title prior to its certification;
- (5) Clarifying that estates, mortgages, liens, charges, instruments, documents, and papers registered with respect to registered land are deemed noted on the uncertified fee time share interest certificate of title, when the registration occurred prior to the earlier of: the date and time of cancellation of a fee time share interest certificate of title; or July 1, 2012;
- (6) Removing language that would have subjected the chain of record title of deregistered land to money judgments, orders, or decrees of a state or district court, with certain exceptions; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

Your Committee notes that this amended measure remains a work in progress and additional amendments may be necessary as this measure continues through the legislative process.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2090, H.D. 2, as amended herein,



and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2090, H.D. 2, S.D. 1, and be referred to your Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,




ROSALYN H. BAKER, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

| | | | | |
|---|---|---------------------------------------|----------------------------------|----------|
| Bill / Resolution No.:* | Committee Referral: | Date: | | |
| HB 2090, HD2 | CPH, JDL | 3-16-16 | | |
| <input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is: | | | | |
| <input checked="" type="checkbox"/> Pass, unamended 2312 | <input checked="" type="checkbox"/> Pass, with amendments 2311 | <input type="checkbox"/> Hold 2310 | | |
| <input type="checkbox"/> Reccommit 2313 | | | | |
| Members | Aye | Aye (WR) | Nay | Excused |
| BAKER, Rosalyn H. (C) | / | | | |
| KIDANI, Michelle N. (VC) | / | | | |
| ESPERO, Will | / | | | |
| IHARA, Jr., Les | | | | / |
| NISHIHARA, Clarence K. | / | | | |
| RUDERMAN, Russell E. | / | | | |
| SLOM, Sam | | | | / |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| TOTAL | 5 | | | 2 |
| Recommendation: | | | | |
| <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature: | | | | |
|  | | | | |
| Distribution: | | | | |
| Original File with Committee Report | Yellow Clerk's Office | Pink Drafting Agency | Goldenrod Committee File Copy | |

*Only one measure per Record of Votes