

JAN 18 2019

A BILL FOR AN ACT

RELATING TO LAND.

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

1 SECTION 1. The legislature finds that the land court of
2 the State of Hawai'i has exclusive original jurisdiction over all
3 applications for the registration of title to land easements or
4 rights in land held and possessed in fee simple within the
5 State, with power to hear and determine all questions arising
6 upon the applications. This includes parcels located in heavily
7 populated areas of the State that were formerly owned by a sugar
8 or pineapple plantation.

9 In order to transfer property subject to land court
10 jurisdiction, existing law requires that every deed or other
11 voluntary instrument presented for recording contains the full
12 name of the grantee and a statement that the grantee is married
13 or unmarried, and if married, the statement must include the
14 full name of the spouse. Hawai'i, like all states, permits
15 spouses to change surnames upon marriage; however, Hawai'i law is
16 unlike most states in that it requires that each of the parties
17 to a marriage or partners in a civil union shall declare the



1 middle and last names each will use as a married person or civil
2 union partner. A majority of states, including California,
3 recognize such change of names by the common law doctrine of
4 "usage". In *Jech v. Burch*, 466 F. Supp. 714 (D. Haw. 1979),
5 Chief Judge Samuel King of the U.S. District Court for the
6 District of Hawai'i explained usage: "I know of no general
7 requirement of law in the absence of a statute that any special
8 procedures must be followed to change one's name. The common law
9 was, quite clearly, that one was free to call himself by
10 whatever name he wished."

11 Because the certificates of marriage issued by most states
12 and foreign countries do not state if any of the parties is
13 changing the person's name as a result of the marriage, these
14 persons, primarily women, encounter problems relating to their
15 names when dealing with the land court. Further, pursuant to
16 the United States Constitution, the land court of the State of
17 Hawai'i should give full faith and credit to the acts, decisions,
18 and orders of other states allowing name changes by the common
19 law doctrine of usage.

20 The purpose of this Act is to clarify that a valid
21 government-issued identification, including a Hawai'i driver's



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1 license and a United States of America passport, shall be
2 adequate proof of identify for the purposes of the land court of
3 the State of Hawai'i.

4 SECTION 2. Chapter 501, Hawaii Revised Statutes, is
5 amended by adding a new section to part I to be appropriately
6 designated and to read as follows:

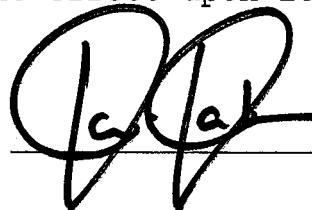
7 "§501- Proof of name; name change. For purposes of this
8 chapter, the court shall accept validly issued government
9 identification, including a passport issued by the United States
10 of America, Hawaii drivers license, and drivers license issued
11 by another state, as evidence to prove a person's full name. A
12 true and correct copy of valid government issued identification
13 as attested to by affidavit executed under the penalty of
14 perjury shall be accepted in lieu of an original. The court
15 shall give full faith and credit to public acts, judgments, and
16 orders of other states that recognize name changes by the common
17 law doctrine of usage or any other method."

18 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect upon its approval.

20

INTRODUCED BY: _____



S.B. NO. 917

Clarence K. Mishikane

Mishikane

[Signature]

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D. K. [Signature]



S.B. NO. 917

Report Title:

Land Court; Proof of Name; Name Change

Description:

Requires the land court to accept valid government issued identification as evidence to prove full name. Requires land court to give full faith and credit to public acts, judgments, and orders of other states that recognize name changes by usage or other method.

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