

DAVID Y. IGE  
GOVERNOR OF  
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**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
FINANCE**

**Monday, April 1, 2019  
2:00 PM  
State Capitol, Conference Room 308**

**In consideration of  
SENATE BILL 898, SENATE DRAFT 1, HOUSE DRAFT 1  
RELATING TO LAND RECORDATION**

Senate Bill 898, Senate Draft 1, House Draft 1 proposes to specify that the data requirements for land recordation by the Bureau of Conveyances (Bureau), on land other than fee simple timeshare interests deregistered by the land court, shall include a map and description prepared by a licensed surveyor. **The Department of Land and Natural Resources appreciates the intent of this measure and offers the following comments.**

The Bureau understands and supports the need for better map data for deregistered land parcels as we continue our discussions with the Hawaii Land Surveyors Association about this bill. There may also be further discussions with some public stakeholders that are warranted to ensure that some recently raised legal questions can be adequately answered.

Thank you for the opportunity to comment on this measure.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**M. KALEO MANUEL**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
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April 1, 2019

**LATE**

Rep. Sylvia Luke, Chair  
Rep. Ty J.K. Cullen, Vice Chair  
Members of the House Committee on Finance  
Thirtieth Legislature  
Regular Session, 2019

Re: S.B. 898, S.D.1, H.D.1.  
Hearing on April 1, 2019, 2:00 p.m.  
Conference Room 308

Dear Chair, Vice Chair and Members of the Committee:

My name is Charles Pear. I am testifying as legislative counsel for ARDA Hawaii.

ARDA Hawaii opposes the bill. A number of lawyers have submitted testimony on this bill. To my knowledge, each of them has opposed the bill. This indicates that further work between the surveyors and the lawyers is necessary before this legislation should be passed.

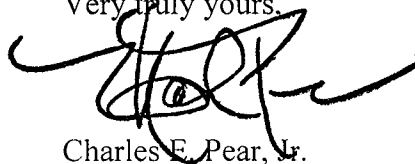
Having said that, House Draft 1 exempts condominiums and time share plans from the operation of this bill for the most part. This eliminates some of ARDA Hawaii's key objections.

Accordingly, if the Committee is inclined to pass this measure, ARDA Hawaii urges the adoption of HD1, but with some drafting corrections. Exhibit A, attached, is a proposed HD2 containing suggested revisions.

Finally, we understand that the surveyors now propose to remove the exemptions for condominium and time share plans. If the Committee is inclined to do so, we ask that the effective date be postponed until the end of the year in order to allow time share developers sufficient time to deregister their commercial units (all time share units are automatically deregistered).

Thank you for your kind consideration of these thoughts.

Very truly yours,



Charles E. Pear, Jr.

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# A BILL FOR AN ACT

RELATING TO LAND RECORDATION.

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

SECTION 1. In 2009, because of the overwhelming volume of timeshare transactions, the legislature enacted Act 120, Session Laws of Hawaii 2009, to remove fee simple timeshare transactions from the land court. In 2013, the legislature provided for the voluntary deregistration of fee simple, non-timeshare land.

The land court provides a systemic and logical process for the mapping and indexing of land and the recording of transactions and encumbrances on land titles, such as mortgagees, liens, leases, claims, and taxes. The land court system, however, was designed to process single, consecutive ownership interests and not multiple, simultaneous interests in a single parcel of land. An unanticipated consequence of the enacted legislation is that there are no clear requirements or standards for the mapping and describing of deregistered lands.

The purpose of this Act is to clarify the data requirements for land recordation in the bureau of conveyances for transactions that do not involve time shares, condominiums,

planned communities, or deregistration of an undivided interest in registered land to require submission of a map and description of the relevant land prepared by a licensed professional surveyor.

SECTION 2. Section 501-261.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§501-261.5[+] Deregistration of registered land other than fee time share interests.~~ ~~[The]~~ (a) To voluntarily deregister land under this chapter, the registered owner of the fee interest in registered land [may] shall submit [a written request] the following to the assistant registrar [to deregister the land under this chapter.]:

(1) ~~[Any]~~ A written request [for deregistration shall include] to deregister the registered land, proof of title insurance in the amount of the value of the land to be deregistered, and a written waiver of all claims against the State relating to the title to the land arising after the date of deregistration[-]; and

(2) A plan of the parcel or parcels sought to be deregistered that includes a map and description prepared by a licensed professional surveyor prepared pursuant to sections 502-17, 502-18, and 502-19; provided that a plan shall not be required for:

(A) Deregistration of land that is part of a condominium property regime subject to chapter 514B, a time share plan subject to chapter 514E, or a planned community subject to chapter 421J;  
or

(B) Deregistration of [the]-an undivided interest in registered land.

~~[-(2)-]~~ (b) If a plan is required to be submitted pursuant to section (a)(2), then upon [Upon] [presentation to the assistant registrar of a



~~written request for deregistration by the registered owner of the fee interest in registered land,~~ satisfactory submission of the documents required pursuant to subsection (a), the assistant registrar shall ~~[not register the same, but shall:]~~ refer the map and description of the parcel or parcels sought to be deregistered to the state land surveyor in the department of accounting and general services for approval after being checked as to form and mathematical correctness but not on the ground.

(c) Upon satisfactory submission of the documents required pursuant to subsection (a)(1) and, if a plan is required to be submitted pursuant to section (a)(2), upon notification of approval of such plan by the state land surveyor, the assistant registrar shall:

~~[(A)]~~ (1) Record in the bureau of conveyances, pursuant to chapter 502, the current certificate of title for the fee interest in the registered land; provided that prior thereto, the assistant registrar shall note on the certificate of title all documents and instruments that have been accepted for registration and that have not yet been noted on the certificate of title for the registered land;

~~[(B)]~~ (2) Record in the bureau of conveyances, pursuant to chapter 502, the written request for deregistration presented to the assistant registrar for filing or recording[-. The request], which shall be recorded immediately after the certificate or certificates of title; and

~~[(C)]~~ (3) Cancel the certificate of title[-]; and

(4) If a plan is required to be submitted pursuant to section (a)(2), record [Record]-in the bureau of conveyances, pursuant to chapter 502, a plan of the parcel or parcels sought to be deregistered, prepared pursuant to sections 502-17, 502-18, and 502-19.

~~[(3)]~~ (d) The [registrar or] assistant registrar shall note the recordation and cancellation of the certificate of title in the registration book and in the records of the

application for registration of the land that is the subject of the certificate of title. The notation shall state [~~the~~]:

(1) The bureau of conveyances document number for the certificate of title [~~sø~~] recorded [~~,the~~];

(2) The certificate of title number[~~,~~]; and [~~the~~]

(3) The land court application number[~~,~~] or consolidation number, map number, and lot number for the land that is the subject of the certificate of title [~~sø~~] recorded.

~~[-(4)-]~~ (e) The assistant registrar shall transmit the notation of the recordation and cancellation to the registrar of the land court and state land surveyor.

(f) No order of court shall be required prior to or in connection with the performance of any of the foregoing actions."

SECTION 3. Section 502-11, Hawaii Revised Statutes, is amended to read as follows:

**"§502-11 Entry record.** The registrar shall make and keep in such form and manner as is prescribed by the board of land and natural resources a permanent record of the receipt of every deed and instrument left for record, every copy left as a caution, [~~and~~] every plan filed, every plan of the parcel or parcels of land deregistered pursuant to section 501-261.5, and shall note on the record, in addition to a description sufficient to identify the document and the date and time of its receipt, [~~such~~] other facts as are prescribed by the board of land and natural resources. Every [~~such~~] document shall be considered as recorded at the time [~~sø~~] noted."

SECTION 4. Section 502-17, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) The registrar shall accept and file in the registrar's office, upon the payment of the fee as provided in section 502-25, any plan of land prepared in the manner prescribed by this section. Every [~~such~~] plan shall contain [a]:

(1) A short name of the tract; [the]

(2) The name of the ahupuaa or ili, district, and island; [such data]

(3) Data concerning the original title of the land as may be known, together with the name of the last owner of record and the owner's address; [the]

(4) The signature and address of the licensed professional surveyor [and the surveyor's address]; [the]

(5) The signature and address of the maker [and the maker's address];

(6) The date of survey, scale, the meridian line, area, the true azimuths and lengths of principal lines; [and the]

(7) The names of all known adjoining owners[-]; and

(8) If the land is deregistered pursuant to chapter 501, part II, and if a plan is required to be submitted as part of such deregistration pursuant to section 501-261.5(a)(2):

(A) A map and description prepared by a licensed professional surveyor of the parcel or parcels of land deregistered; and

(B) An application or consolidation number and document numbers of the canceled certificate of title.

One or more durable monuments shall be placed on the land which shall connect with the government triangulation system and which monuments shall be placed as indicated on the plan. Whenever the land platted is made up of more than one original title, it shall be necessary to show all original title lines in broken lines as follows:

.....

(b) The plan shall first be referred to the department of accounting and general services of the State which shall cause the same to be checked as to form and mathematical correctness but not on the ground. If the plan is drawn in accordance with this section and sections 502-18 and 502-19, the department shall indorse its approval of the plan on the face thereof, after which the plan may be filed of record. The department shall withhold approval of any plan until satisfied that the surveyor and maker of the plan is a ~~[registered]~~ licensed professional surveyor."

2. By amending subsection (d) to read:

"(d) On receipt for recordation of a transfer or separate description document concerning a lot in a subdivision, the registrar shall accept and file the document with:

- (1) A metes and bounds description, either solely or as part of the document;
- (2) A county certified plat map; and
- (3) A letter from a ~~[registered]~~ licensed professional surveyor, certifying that the metes and bounds description conforms to the accompanying plat map.



The document shall otherwise comply with the requirements for recordation under this section. Any parcel created or subdivided prior to the effective date of the subdivision laws of the respective counties are exempt from the provisions of this subsection."

SECTION 5. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 7. This Act shall take effect on July 1, 2050.

**Report Title:**

Land Recordation; Bureau of Conveyances; Deregistered Land

**Description:**

Requires submission of a map and description of the relevant land prepared by a licensed surveyor along with an application for the voluntary deregistration of land from the Land Court and recordation of title in the Bureau of Conveyances. Exempts transactions that involve time shares, condominiums, planned communities, or deregistration of an undivided interest in registered land. (SB898 HD1)

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

Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair  
Committee On Finance



From: Meyer Cummins, LPLS

Date: Monday, April 1, 2019

Subject: In Favor of SD 898 SD 1 HD 1 HSCR 1688 relating to Land Recordation

Honorable Representative Sylvia Luke, Chair, Honorable Representative Ty J.K. Cullen, Vice Chair, and members of the Committee On Finance

Thank you for allowing me to testify in favor of SD 898 SD 1 HD 1 HSCR 1688 relating to Land Recordation.

My name is Meyer Cummins and I am a land surveyor licensed to practice in the State of Hawaii. I am also the Vice President of the Hawaii Land Surveyors Association which represents a majority of the licensed land surveyors in the State.

When Land Court Deregistration legislation was passed it created a myriad of problems by not addressing items like the resurrection of original land titles, how to provide accurate deed descriptions and maps for deregistered lands, how Land Court easements affect registered lands and deregistered lands, how to note deregistered lands on Land Court Maps, and clarification on whether a deregistered undivided interest would benefit from Land Court title protections affecting the Land Court lot. These issues, our association believes, should have been considered before Land Court Deregistration was made law and many of the answers can only be decided by the courts.

SD 898 SD 1 HD 1 HSCR 1688 is a bill intended to correct two important aspects of deregistration that directly affects land owners who wish to voluntarily remove their lands from the Land Court registration system, and the historic and cultural record of Hawaii's land titles. This bill is designed to protect land owners by providing for a new, Regular System, map and legal description of their deregistered land which will be recorded in the public record. It will also serve to uniformly perpetuate the original Hawaiian land titles established by the Kingdom of Hawaii and its people, a responsibility that Hawaii's land surveyors have been executing for over a hundred and fifty years.

Some parties who may oppose this bill do so on the grounds that the map and description requirement delays the expediency of the current deregistration process. However, the current process does not ensure that land owners have the proper and applicable documentation outlining the rights and encumbrances associated with their land after it has been removed from the Land Court system. Haste at the cost of diligence will ultimately lead to

unforeseen problems, like those that arose from Land Court Deregistration, for the land owner and the surveying and title professions alike.

Current deregistration legislation also provides a vehicle for undivided interests to deregister from the land court. HLSA and the surveyors we represent, along with title professionals that work with us hand in hand believe this is an error that resulted from the original legislation that will only serve to complicate title issues and recording procedures. We have revised our original bill's language to bar undivided interests from deregistering unless that undivided interest represents the entire remaining interest in registered land so as to provide land owners, surveyors and title professionals a clear picture of the land titles associated with the land and a clean transition from the Land Court to the Regular System.

Mahlo nui for this opportunity to testify. Should you have any questions, I can be reached at (808)294-3051 and will make myself available for questions.

Meyer Cummins, LPLS