



GOV. MSG. NO. 1339

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

July 6, 2023

The Honorable Ronald D. Kouchi
President of the Senate,
and Members of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki
Speaker, and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 6, 2023, the following bill was signed into law:

SB1391 SD1 HD2 CD1

RELATING TO ADMINISTRATIVE
PENALTIES ON PUBLIC LANDS.
ACT 236

Sincerely,

Josh Green, M.D.
Governor, State of Hawai'i

on JUL 6 2023

THE SENATE
THIRTY-SECOND LEGISLATURE, 2023
STATE OF HAWAII

S.B. NO. 1391
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE PENALTIES ON PUBLIC LANDS.

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

1 SECTION 1. Section 171-6.4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§171-6.4[+] General administrative penalties. (a)

4 Except as otherwise provided by law, the board or its authorized
5 representative by proper delegation may set, charge, and collect
6 administrative fines or bring legal action to recover
7 administrative fees and costs as documented by receipts or
8 affidavit, including attorneys' fees and costs; or bring legal
9 action to recover administrative fines, fees, and costs,
10 including attorneys' fees and costs, or payment for damages
11 resulting from a violation of this chapter or any rule adopted
12 pursuant to this chapter. The administrative fines shall be as
13 follows:

- 14 (1) For a first violation, a fine of not more than \$2,500;
- 15 (2) For a second violation within five years of a previous
16 violation, a fine of not more than \$5,000; and



1 (3) For a third or subsequent violation within five years
2 of the last violation, a fine of not more than
3 \$10,000.

4 (b) Any criminal action against a person for any violation
5 of this chapter or any rule adopted pursuant to this chapter
6 shall not be deemed to preclude the State from pursuing civil
7 legal action against that person. Any civil legal action
8 against a person to recover administrative fines and costs for
9 any violation of this chapter or any rule adopted pursuant to
10 this chapter shall not be deemed to preclude the State from
11 pursuing any criminal action against that person. Each day of
12 each violation shall constitute a separate offense.

13 (c) Noncompliance with administrative enforcement action
14 against a landowner for a land use, as defined in section 183C-
15 2, that violates the law or for a currently unauthorized
16 structure encroaching on public lands, including but not limited
17 to submerged lands or lands within the shoreline, that falls,
18 slides, or comes onto public land, or arises from or benefits an
19 adjoining or abutting private land shall affect title pursuant
20 to section 501-151 and result in a lien attaching to the
21 adjoining or abutting private land."



1 SECTION 2. Section 501-151, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§501-151 Pending actions, judgments; recording of,
4 notice. No writ of entry, action for partition, or any action
5 affecting the title to real property or the use and occupancy
6 thereof or the buildings thereon, and no judgment, nor any
7 appeal or other proceeding to vacate or reverse any judgment,
8 shall have any effect upon registered land as against persons
9 other than the parties thereto, unless a full memorandum
10 thereof, containing also a reference to the number of the
11 certificate of title of the land affected is filed or recorded
12 and registered. Except as otherwise provided, every judgment
13 shall contain or have endorsed on it the State of Hawaii general
14 excise taxpayer identification number, the federal employer
15 identification number, or the last four digits only of the
16 social security number for persons, corporations, partnerships,
17 or other entities against whom the judgment is rendered. If the
18 judgment debtor has no [~~social security number,~~] State of Hawaii
19 general excise taxpayer identification number, [~~or~~] federal
20 employer identification number, or social security number, or if
21 that information is not in the possession of the party seeking



1 registration of the judgment, the judgment shall be accompanied
2 by a certificate that provides that the information does not
3 exist or is not in the possession of the party seeking
4 registration of the judgment. Failure to disclose or disclosure
5 of an incorrect [~~social security number,~~] State of Hawaii
6 general excise taxpayer identification number, [~~ex~~] federal
7 employer identification number, or social security number shall
8 not in any way adversely affect or impair the lien created upon
9 recording of the judgment. This section [~~does~~] shall not apply
10 to attachments, levies of execution, or [~~to~~] proceedings for the
11 probate of wills, or for administration in a probate court;
12 provided that in case notice of the pendency of the action has
13 been duly registered, it [~~is~~] shall be sufficient to register
14 the judgment in the action within sixty days after the rendition
15 thereof.

16 As used in this chapter, "judgment" includes an order or
17 decree having the effect of a judgment.

18 Notice of the pendency of an action in a United States
19 District Court, as well as a state court [~~of the State of~~
20 ~~Hawaii~~], may be recorded.



1 Notice of opening a dispute resolution case as provided in
2 section 667-79 may be recorded.

3 Foreclosure notice as provided in section 667-23 may be
4 recorded.

5 The party seeking registration of a judgment shall redact
6 the first five digits of any social security number by blocking
7 the numbers out on the copy of the judgment to be filed or
8 recorded.

9 As used in this section, "action" includes an
10 administrative enforcement action by any state or county agency,
11 board, or commission against a landowner for a land use
12 violation or a currently unauthorized structure encroaching on
13 public lands, including but not limited to submerged lands or
14 lands within the shoreline, that falls, slides, or comes onto
15 public land, or arises from or benefits an adjoining or abutting
16 private land."

17 SECTION 3. Section 634-51, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§634-51 Recording of notice of pendency of action.
20 [+] (a) [+] In any action concerning real property or affecting
21 the title or the right of possession of real property, the



1 plaintiff[7] at the time of filing the complaint[7]; any state
2 or county agency, board, or commission imposing an
3 administrative enforcement action; and any other party at the
4 time of filing a pleading in which affirmative relief is
5 claimed, or at any time afterwards, may record in the bureau of
6 conveyances a notice of the pendency of the action, containing
7 the names or designations of the parties, as set out in the
8 summons or pleading, the object of the action or claim for
9 affirmative relief, and a description of the property affected
10 thereby. From and after the time of recording the notice, a
11 person who becomes a purchaser or encumbrancer of the property
12 affected shall be deemed to have constructive notice of the
13 pendency of the action and be bound by any judgment entered
14 therein if the person claims through a party to the action;
15 provided that in the case of registered land, section 501-151,
16 sections 501-241 to 501-248, and part II of chapter 501 shall
17 govern.

18 [f] (b) [f] This section authorizes the recording of a
19 notice of the pendency of an action in a United States District
20 Court, as well as a state court.

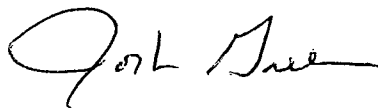


1 (c) As used in this section, "action" includes an
2 administrative enforcement action by any state or county agency,
3 board, or commission against a landowner for a land use
4 violation or a currently unauthorized structure encroaching on
5 public lands, including but not limited to submerged lands or
6 lands within the shoreline, that falls, slides, or comes onto
7 public land, or arises from or benefits an adjoining or abutting
8 private land."

9 SECTION 4. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect upon its approval.

APPROVED this **6th** day of **July** , 2023




GOVERNOR OF THE STATE OF HAWAII




THE SENATE OF THE STATE OF HAWAI‘I

Date: May 2, 2023
Honolulu, Hawai‘i 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-Second Legislature of the State of Hawai‘i, Regular Session of 2023.


President of the Senate


Clerk of the Senate

SB No. 1391, SD 1, HD 2, CD 1

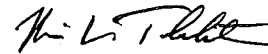
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2023
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives