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# A BILL FOR AN ACT

RELATING TO LAND COURT.

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

1           SECTION 1. The legislature finds that under the current  
2 land court system, any amendment to the documents governing a  
3 condominium or planned community must be noted on the  
4 certificate of title for each unit. Authorizing the use of a  
5 master certificate of title that lists encumbrances of general  
6 application will permit certificates of title for individual  
7 units to incorporate by reference the encumbrances on the master  
8 certificate of title. This will eliminate the need to change  
9 the certificate of title for each unit to reflect any changes in  
10 the encumbrances of general application to the condominium or  
11 planned community.

12           Accordingly, the purpose of this Act is to simplify and  
13 streamline the operation of the land court by authorizing the  
14 use of a master certificate of title for common interest  
15 communities.



1 SECTION 2. Chapter 501, Hawaii Revised Statutes, is  
2 amended by adding four new sections to be appropriately  
3 designated and to read as follows:

4 "§501- New common interest communities. (a) Upon the  
5 recording of a declaration creating a common interest community,  
6 the assistant registrar shall:

7 (1) Prepare a master certificate of title for the common  
8 interest community, assign a certificate number to it,  
9 and index it in the same manner as for other  
10 certificates of title. The name of the owner shall be  
11 "homeowners";

12 (2) Issue separate certificates of title for each unit in  
13 the common interest community, including any common  
14 area established as a unit of a planned community;  
15 provided that the assistant registrar shall not be  
16 required to issue separate certificates of title for  
17 the units of a planned community if the subdivision of  
18 the registered land of the planned community has not  
19 taken place; and

20 (3) Endorse the certificate of title for each unit in the  
21 common interest community with the following



1           statement: "subject to encumbrances, liens, and  
2           interests noted on master certificate of title  
3           no. \_\_\_\_\_."

4           (b) In addition to the requirements under subsection (a),  
5 upon the recording of a declaration creating a common interest  
6 community in a condominium, the assistant registrar shall  
7 include the following statement in the description of the land  
8 on the certificate of title for each unit: "an undivided  
9 percentage interest in the registered land of the condominium  
10 equal to the common interest appurtenant to unit \_\_\_\_\_, as set  
11 forth in the declaration establishing the condominium or other  
12 percentage interest as hereafter established for said  
13 condominium unit by any amendment of the declaration  
14 establishing the condominium or pursuant to any declaration of  
15 merger effecting a legal merger of two or more condominium  
16 projects into a single condominium project."

17           If two or more units in a condominium bear identical unit  
18 numbers, the assistant registrar may establish a property  
19 identification number or other alternate means of identifying  
20 the units.



1           §501- Existing common interest communities. (a) Upon  
2 the recording of an amendment or supplement to the governing  
3 documents of a common interest community, the assistant  
4 registrar may:

5           (1) Prepare a master certificate of title for the common  
6 interest community, assign a certificate number to it,  
7 and index it in the same manner as for other  
8 certificates of title. The name of the owner shall be  
9 "homeowners"; and

10           (2) Endorse the certificate of title for each unit in the  
11 common interest community with the following  
12 statement: "subject to encumbrances, liens, and  
13 interests noted on master certificate of title  
14 no. \_\_\_\_\_."

15           (b) In addition to the requirements under subsection (a),  
16 upon the recording of an amendment or supplement to the  
17 governing documents of a common interest community in a  
18 condominium, the assistant registrar may change the description  
19 of the land on the certificate of title for each unit to include  
20 the following statement: "an undivided percentage interest in  
21 the registered land of the condominium equal to the common



1 interest appurtenant to unit \_\_\_\_\_, as set forth in the  
2 declaration establishing the condominium, as amended, or other  
3 percentage interest as hereafter established for said  
4 condominium unit by any further amendment of the declaration  
5 establishing the condominium or pursuant to any declaration of  
6 merger effecting a legal merger of two or more condominium  
7 projects into a single condominium project.".

8 If two or more units in a condominium bear identical unit  
9 numbers, the assistant registrar may establish a property  
10 identification number or other alternate means of identifying  
11 the units.

12 (c) The association of a common interest community, or any  
13 owner of a unit in a common interest community, may petition the  
14 court for issuance of a master certificate of title for that  
15 common interest community. Upon approval of the petition, the  
16 assistant registrar shall proceed according to subsection (a) or  
17 (b).

18 **§501- Effect of master certificate of title.** (a) The  
19 entry of a notation on the master certificate of title shall  
20 have the same effect as if the notation was entered on the  
21 certificates of title for the individual units of the common



1 interest community as of the date and time shown on the master  
2 certificate of title.

3 (b) Any documents or instruments listed on the master  
4 certificate of title for a planned community shall be deemed  
5 deleted from the certificate of title for the individual units  
6 of that planned community; provided that it shall not be  
7 necessary for the assistant registrar to delete the notation of  
8 the documents and instruments from the certificate of title for  
9 the individual units.

10 In the event of a conflict between the documents and  
11 instruments listed on the master certificate of title for a  
12 planned community and the certificate of title for an individual  
13 unit, the master certificate of title shall govern unless the  
14 court determines that there has been an error in the preparation  
15 of the master certificate of title. If the court determines  
16 that there has been an error, the assistant registrar shall  
17 correct the master certificate of title in accordance with the  
18 determination of the court.

19 (c) Nothing in this section shall in any way be construed  
20 to alter or otherwise affect the validity or order of priority



1 of documents and instruments registered prior to, in conjunction  
2 with, or after the issuance of a master certificate of title.

3 **§501- Content of master certificate of title.** (a) A  
4 master certificate of title shall not state or note a lien or  
5 encumbrance that pertains solely or principally to the interest  
6 of an individual owner in the common interest community,  
7 including but not limited to:

8 (1) The interest of the individual unit owners of a  
9 condominium project or planned community;

10 (2) An apartment lease, unit lease, or condominium  
11 conveyance document;

12 (3) A deed or agreement of sale of an individual unit;

13 (4) A mortgage, deed of trust, or other lien or  
14 encumbrance made by an individual owner on the  
15 individual owner's interest in a common interest  
16 community;

17 (5) A lien or notice of lien in favor of an association  
18 against an individual owner's interest in a common  
19 interest community;



- 1        (6) A judgment, decree, order of court, attachment, writ,  
2        or other process against an individual owner's  
3        interest in a common interest community;
- 4        (7) A mechanic's or materialman's lien upon an individual  
5        owner's interest in a common interest community;
- 6        (8) A lis pendens, notice of pendency of action, notice,  
7        affidavit, demand, certificate, execution, copy of  
8        execution, officer's return, or other instrument  
9        relating to an individual owner's interest in a common  
10       interest community and required to be registered in  
11       connection with the enforcement or foreclosure of any  
12       lien, whether by way of power of sale pursuant to  
13       chapter 667, or otherwise;
- 14       (9) A power of attorney not reserved in the governing  
15       documents and given by an individual owner of an  
16       interest in a common interest community or by the  
17       vendor or vendee under an agreement of sale for the  
18       sale of the owner's unit, a mortgagee or other lienor  
19       having a mortgage or lien upon the owner's interest in  
20       the common interest community, or another party





1           holding a claim or encumbrance against or an interest  
2           in an individual owner's unit; or  
3       (10) An instrument assigning, extending, continuing,  
4           dissolving, discharging, releasing in whole or in  
5           part, reducing, canceling, extinguishing, or otherwise  
6           modifying or amending any of the foregoing  
7           instruments.  
8       (b) After issuance of the master certificate of title, the  
9       following documents and instruments shall be noted on the master  
10       certificate of title, and not on the owner's certificate of  
11       title for the individual unit:  
12       (1) Any additional governing documents, including but not  
13           limited to any amendment or supplement to the existing  
14           governing documents and any declaration of annexation  
15           or deannexation;  
16       (2) Any instrument evidencing the transfer of any special  
17           developer or declarant rights under the governing  
18           documents of the common interest community;  
19       (3) Any easement, license, common element lease, or common  
20           area lease encumbering or in favor of the registered  
21           land of a condominium project;



1        (4) Any lien against the common elements of a condominium  
2        project, but only to the extent permitted by chapter  
3        514B or permitted by any predecessor condominium  
4        statute during the period in which the predecessor  
5        statute was in effect; and

6        (5) Any instrument assigning, extending, continuing,  
7        dissolving, discharging, releasing in whole or in  
8        part, reducing, canceling, extinguishing, or otherwise  
9        modifying or amending any of the documents or  
10       instruments noted on the master certificate of title."

11       SECTION 3. Section 501-20, Hawaii Revised Statutes, is  
12 amended by adding five new definitions to be appropriately  
13 inserted and to read as follows:

14       "Association" means the association of owners of a  
15 condominium, a planned community association as defined in  
16 section 607-14, or the association of a planned community  
17 governed by chapter 421J.

18       "Common interest community" means a condominium created in  
19 this State, whether established pursuant to chapter 514B or any  
20 predecessor statute, or a planned community governed by chapter  
21 421J.



1       "Governing documents" means any documents or instruments  
2 registered pursuant to this chapter that create or govern a  
3 common interest community or its association as determined by  
4 the assistant registrar. Examples of the term include: a  
5 declaration of a planned community, as defined under chapter  
6 421J; the declaration establishing a condominium, by whatever  
7 name denominated; the bylaws of an association of owners of a  
8 condominium; a condominium map; a declaration of merger of  
9 condominium phases; any instrument effecting a merger of  
10 condominium phases; an assignment of developer's or declarant's  
11 rights; and any amendment or supplement to or restatement of any  
12 of the foregoing instruments.

13       "Master certificate of title" means a certificate of title  
14 that:

- 15       (1) Lists the governing documents of a common interest  
16       community;
- 17       (2) In the case of a condominium, describes the registered  
18       land of the condominium and all easements, rights, and  
19       interests appurtenant to the registered land of the  
20       project as established or evidenced by instruments



1 registered in the office of the assistant registrar;

2 and

3 (3) Lists the documents and instruments of general  
4 application to the registered land of the common  
5 interest community as determined by the assistant  
6 registrar; provided that a master certificate of title  
7 need not list documents and instruments noted in  
8 another master certificate of title, such as a master  
9 declaration of covenants, conditions, and restrictions  
10 governing multiple planned communities.

11 "Unit" means:

12 (1) In the case of a condominium, a condominium unit in  
13 the condominium; and

14 (2) In the case of a planned community, a unit as that  
15 term is defined in chapter 421J."

16 SECTION 4. New statutory material is underscored.

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

18

INTRODUCED BY: 



# S.B. NO. 2859

**Report Title:**

Land Court; Master Certificate of Title; Common Interest  
Communities

**Description:**

Authorizes the use of a master certificate of title for common  
interest communities to simplify and streamline the operation of  
the land court.

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

