
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 new common interest
15 communities.



1 SECTION 2. Chapter 501, Hawaii Revised Statutes, is
2 amended by adding three 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 determined by the assistant registrar and will
12 incorporate the name of the new common interest
13 community;
- 14 (2) Issue separate certificates of title for each unit in
15 the common interest community, including any common
16 area established as a unit of a planned community;
17 provided that the assistant registrar shall not be
18 required to issue separate certificates of title for
19 the units of a planned community if the subdivision of
20 the registered land of the planned community has not
21 taken place; and



1 (3) Endorse the certificate of title for each unit in the
 2 common interest community with the following
 3 statement: "subject to encumbrances, liens, and
 4 interests noted on master certificate of title
 5 no. .".

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

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



1 certificates of title for the individual units of the common
2 interest community as of the date and time shown on the master
3 certificate of title.

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

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

20 (c) Nothing in this section shall in any way be construed
21 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 on July 1, 2050.



Report Title:

Land Court; Master Certificate of Title; Common Interest
Communities

Description:

Authorizes the use of a master certificate of title for new
common interest communities to simplify and streamline the
operation of the land court. Takes effect 7/1/2050. (SD1)

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not legislation or evidence of legislative intent.*

