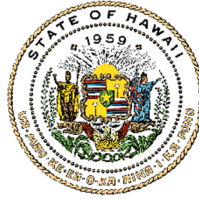


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

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ACTING 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
LAND
STATE PARKS

**Testimony of
DAWN N.S. CHANG
Chairperson**

**Before the Senate Committees on
WATER AND LAND
and
COMMERCE AND CONSUMER PROTECTION**

**Thursday, February 15, 2024
9:30 AM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 2859
RELATING TO LAND COURT**

Senate Bill 2859 proposes to amend Hawaii Revised Statutes (HRS) Chapter 501 by authorizing the use of a “master certificate of title” for common interest communities. The Department of Land and Natural Resources (Department) acknowledges the intent of this bill is to simplify and streamline the Land Court process and offers the following comments and concerns.

This bill has the potential to streamline one part of the Land Court process for any new common interest communities. This “master certificate of title” (master TCT) would abbreviate the current procedure of notating repetitive entries on individual transfer certificate of titles (TCT) that are created for each conveyance by referencing the master TCT that would have these repetitive entries. It should be noted that the Bureau of Conveyance (BOC) already has some automation in place with our Land Records Management System (LRMS) that supports a very similar process that is being proposed with this master TCT. With this capability already in place, this bill’s mandate to apply this process to existing common interest units would be a duplication of effort and require extensive staff resources that are already challenged with maintaining the day-to-day operations.

This bill also proposes to have the assistant registrar establish a new unit number in the case of identical unit numbers. Due to unit numbers being a key identifier in legal property descriptions on affected deeds, the assistant registrar should work together with the developer of the common interest community to resolve this duplication.

The Department is confident that the current automated process available would essentially achieve the same results as the master TCT. However, if the Committees sees fit to move this bill forward, the Department respectfully offers the following recommendations for revisions to this bill that address our concerns:

1. At page 2, line 11 of this bill, modify the following subsection (1) of the proposed new Section to HRS Chapter 501- New common interest communities:

(1) Prepare a master certificate of title for the common interest community, assign a certificate number to it, and index it in the same manner as for other certificates of title. The name of the owner shall be ~~“homeowners”~~ determined by the assistant registrar and will incorporate the name of the new common interest community.

2. Strike in its entirety the language at page 3, lines 17-20 of this bill.

3. Strike in its entirety the language at page 4, lines 1-21 and page 5 lines 1-17 of this bill.

Mahalo for this opportunity to present our comment and concerns on this measure.

HAWAII LEGISLATIVE
ACTION COMMITTEE


community
ASSOCIATIONS INSTITUTE

P.O. Box 976
Honolulu, Hawaii 96808

February 9, 2024

The Honorable Senator Jarrett Keohokalole, Chair
Senate Committee on Commerce and Consumer Protection
415 South Beretania Street, Room 229
Honolulu, HI 96813

The Honorable Senator Lorraine R. Inouye, Chair
Senate Committee on Water and Land
415 South Beretania Street, Room 229
Honolulu, HI 96813

RE: SB 2859 - Relating to Land Court

Dear Chair Keohokalole, Chair Inouye and Members of the Committees:

The Community Associations Institute (CAI) is a national and statewide organization of individuals involved in the operation of community associations, including community associations, homeowners, directors, managers and business partners of community associations. CAI supports SB 2859.

Community associations in the Land Court system often have difficulty recording amendments to their governing documents approved by their members. The Office of the Assistant Registrar of the Land Court does not maintain a list of TCT numbers for units in a condominium or planned community. When the owners amend the governing documents, associations are required to have a title company prepare a list of the TCT numbers for all the units in the community. This takes time, effort, and cost for the association. Even then, because new TCT numbers are issued for units whenever there is a transfer of a unit, the submission can be rejected because the list of TCT numbers has changed due to transfer of units.

A master TCT for community associations would greatly simplify the system of recording amendments to the governing documents for

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The Honorable Senator Lorraine R. Inouye, Chair
RE: SB 2859 - Relating to Land Court
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projects in the Land Court system. At the same time, individual unit owners will still be able to identify and locate the governing documents for their association on the Master TCT.

For these reasons CAI supports SB 2859. If you have any questions, I will be available to answer them.

Very truly yours,

Richard S. Ekimoto

Na Lan & Richard S.
Ekimoto

For
The Hawaii Legislative
Action Committee of the
Community Associations
Institute

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ACTION COMMITTEE


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For
The Hawaii Legislative
Action Committee of the
Community Associations
Institute

SB-2859

Submitted on: 2/8/2024 5:28:20 PM

Testimony for WTL on 2/15/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Rebecca Szucs	Individual	Support	Written Testimony Only

Comments:

I fully support this bill as it will simplify the recording process for co-ops and condominium and homeowners' associations, reduce the likelihood of a Land Court document getting bounced (due to incorrect or changed TCTs), conserve resources (time and money), decrease backlogs, and increase turnaround time.

SB-2859

Submitted on: 2/9/2024 11:37:25 AM

Testimony for WTL on 2/15/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Terry Welch	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB2859.

If enacted, Section 501 of this bill would allow Existing Homeowners Associations and their attorneys to **retroactively** subject homeowners to identical (cookie-cutter) encumbrances, liens, and interests. This is too much power to apply **retroactively**, and would deny the homeowners due process. **It has been established in Land Court that there are often exceptions to encumbrances within the same Association. Many encumbrances have already been found in Land Court to be completely invalid.** The bill contains the onerous phrase "The name of the owner shall be "homeowners";" and it would paint hundreds of Certificates of Title with an imprecise and broad brush.

Again, I strongly **oppose SB2859**

SB-2859

Submitted on: 2/9/2024 7:40:06 PM

Testimony for WTL on 2/15/2024 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Nick Young	Individual	Oppose	Written Testimony Only

Comments:

I oppose SB2859

The bill would ignore significant differences in the titles of existing properties and replace them with identical (one size fits all) encumbrances, liens, and interests. Some properties in our development have rights to a pool, while others do not. Some properties in our development have private roads and driveways, while others do not. Some properties in our development are governed by Condominium law, and others are not. Some properties in our development were built by a single builder, while others are custom homes. Some properties in our development were annexed to the association before the required date, while others were not. Some properties in our development have successfully been removed from encumbrances. To replace the individual certificates of title for these properties with a single "master certificate of title" under the homeowner name "homeowners" would create more problems than it solves. The portion of this bill for Existing Homeowners Associations completely ignores the differences in the annexation status of homes in our community. Homes were annexed over the span of many years by separate documents. Some of these annexations have been found to be invalid. To replace them with a single "master certificate of title" is deliberately deceptive and manipulative. This portion of the bill benefits only the industry that represents **oppressive** associations and gives too much power to Community Associations.

Again, I **strongly oppose** SB2859.