

ACT 293

H. B. 424.

A Bill for an Act Relating to Taxation of Conveyances and Amending Chapter 128A of the Revised Laws of Hawaii 1955.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Purpose. The purpose of this Act is to delete the requirement for submission of a duly notarized affidavit of the actual and full consideration of property transferred and substituting in lieu thereof, submission of a certificate of conveyance setting forth the actual consideration of the property transferred and such other facts as the director of taxation shall prescribe. The certificate of conveyance shall be verified by a written declaration on the form that the statements made therein are subject to the penalties prescribed for false declaration of facts.

SECTION 2. Section 128A-6 of the Revised Laws of Hawaii 1955 is amended to read as follows:

“Sec. 128A-6. Certificate of conveyance required. (a) Any party to a document or instrument subject to this chapter, or his authorized representative, shall file, in the manner and place which the director of taxation shall prescribe, a certificate of conveyance setting forth the actual and full consideration of the property transferred, including any lien or encumbrance on the property, and such other facts as the director of taxation may by regulations prescribe. The certificate of conveyance shall be verified by a

written declaration thereon that the statements made therein are subject to the penalties prescribed for false declaration in section 128A-11. The certificate shall be appended to the document or instrument made subject to this chapter and shall be filed with the director of taxation simultaneously with the aforementioned document or instrument for the imprinting of the required seal or seals.

(b) No certificate is required to be filed for any document or instrument made exempt by section 128A-3, save and except that in the following situations, a certificate must be filed in the manner and place which the director of taxation shall prescribe, within ninety days after the transaction or prior to the recordation or filing of the document or instrument with the registrar of conveyances or the assistant registrar of the land court or after such period, recordation or filing as the director of taxation shall prescribe:

(1) In the case of any document or instrument described under subsection 128A-3(c), any party to such document or instrument shall file a certificate declaring that the document or instrument merely confirms or corrects a deed, lease, sublease, assignment, transfer, or conveyance previously recorded or filed.

(2) In the case of any document or instrument described under subsection 128A-3(e), any party to such document or instrument shall file a certificate declaring the amount of the nominal consideration paid and marital or parental relationship of the parties.

(3) In the case of any document or instrument described under subsection 128A-3(e), any party to such document or instrument shall file a certificate declaring the reasons why no consideration is paid or to be paid.

(4) In the case of any deed described in subsection 128A-3(f), any party to such a deed shall file a certificate declaring that the deed is made pursuant to an agreement of sale, and where applicable, an assignment or assignments of agreements of sale.

(5) In the case of any document or instrument described under subsection 128A-3(g), any party to the document or instrument as grantee, lessee, assignee, sublessee, transferee, purchaser, or conveyee, shall file a certificate declaring the full and actual consideration of the property transferred.

(6) In the case of any document or instrument described under subsection 128A-3(h), any person made a party to the document or instrument as grantee, assignee, or transferee shall file a certificate declaring the full and actual consideration of the property transferred.

(c) The form of the certificate and the procedure to be followed for the submission of the certificate shall be prescribed by the director of taxation.

(d) Notwithstanding the foregoing, where the director of taxation deems it impracticable to obtain the signature of any party to a certificate required under this section, he may, in his discretion, waive the requirement of securing the signature of any or all parties to the certificate.

(e) No document or instrument, on account of which a certificate is

required to be filed with the office of the director of taxation under this section, shall be accepted for recordation or filing with the registrar of conveyances or the assistant registrar of the land court, unless such certificate has been duly filed.

(f) Except as provided by law, it shall be unlawful for any officer or employee of the State to make known intentionally information imparted by any certificate filed under this chapter or to permit any such certificate or any copy thereof to be seen or examined by any person other than the person or persons executing such certificate, or their duly authorized agents, or any person duly authorized by the State in connection with their official duties. Any offense against the foregoing provisions shall be punishable by a fine not exceeding five hundred dollars or imprisonment not exceeding one year, or both."

SECTION 3. The second sentence of section 128A-5 is amended to read as follows:

"The seal or seals shall be so imprinted with* a ninety day period after the transaction or prior to the recordation or filing of the document or instrument with the registrar of conveyances or the assistant registrar of the land court or after such period, recordation or filing as the director of taxation shall prescribe."

SECTION 4. Section 128A-11 of the Revised Laws of Hawaii 1955 is amended by deleting the words "affidavit or affidavits" appearing therein and substituting in lieu thereof the words "certificate or certificates."

SECTION 5. This Act shall take effect January 1, 1968.

(Approved June 10, 1967.)

* Should read, "within".