

## ACT 219

S.B. NO. 3159

A Bill for an Act Relating to the Time Share Law.

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

SECTION 1. Chapter 501, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART . LEASEHOLD TIME SHARE INTERESTS**

**§501- Leasehold time share interests.** (a) Except as otherwise expressly provided in this part, the requirements of chapter 502 shall apply to a leasehold time share interest and the requirements of this chapter shall not apply to such leasehold time share interest.

(b) Without limiting the generality of subsection (a), the following instruments need not be registered pursuant to this chapter to be effective and shall be recorded in the bureau of conveyances pursuant to chapter 502:

- (1) An assignment or other instrument transferring a leasehold time share interest;
- (2) A mortgage or other instrument granting a lien on a leasehold time share interest;
- (3) An agreement of sale for the sale of a leasehold time share interest. Any such agreement of sale shall be subject to section 502-85 and shall not be subject to section 501-101.5 of this chapter;
- (4) A lien or notice of lien pertaining to a leasehold time share interest in favor of a time share owners association, an association of apartment owners, or a similar homeowner’s association;
- (5) A judgment, decree, order of court, attachment, writ or other process against a leasehold time share interest;
- (6) A mechanic’s or materialmans’ lien or other lien upon a leasehold time share interest;
- (7) A lis pendens or notice of pendency of action, notice, affidavit, demand, certificate, execution, copy of execution, officer’s return, or other instrument relating to a leasehold time share interest and otherwise required or permitted to be recorded or registered in connection with the enforcement or foreclosure of any lien, whether by way of power of sale pursuant to a power of sale under section 667-5, or otherwise;
- (8) A power of attorney given by the owner of a leasehold time share interest or the vendor or vendee under an agreement of sale for the sale

of a leasehold time share interest, a mortgagee or other lienor having a mortgage or lien upon a leasehold time share interest, or another party holding a claim or encumbrance against or an interest in a leasehold time share interest; or

- (9) An instrument assigning, extending, continuing, dissolving, discharging, releasing in whole or in part, reducing, canceling, extinguishing, or otherwise modifying or amending any of the foregoing instruments.

(c) Every conveyance, lien, attachment, order, decree, instrument, or entry affecting a leasehold time share interest which would, if registered, filed or recorded, or entered in the office of the assistant registrar pursuant to this chapter, affect the leasehold time share interest to which it relates, if recorded, filed, or entered in the bureau of conveyances pursuant to chapter 502, shall be notice to all persons from the time of such recording, filing, or entering in the bureau of conveyances.

(d) The assistant registrar shall not be required to make a memorandum or other note upon the certificate of title for registered land subject to a leasehold time share interest of any conveyance, lien, attachment, order, decree, instrument, or entry recorded, filed, or entered solely in the bureau of conveyances against the leasehold time share interest.

(e) Notwithstanding subsections (a), (b), and (c), the following instruments shall be registered by recording the instrument with the assistant registrar and by a brief memorandum thereof made by the assistant registrar upon the certificate of title, and signed by the assistant registrar:

- (1) The apartment lease, and any amendments thereto, and any cancellation or extinguishment thereof;
- (2) Any deed or other instrument conveying the fee interest in registered land and any other instrument encumbering or otherwise dealing with the fee interest in registered land including but not limited to a mortgage of the fee interest, an assignment of the lessor's interest in a lease, or the designation, grant, conveyance, transfer, cancellation, relocation, realignment, or amendment of any easement encumbering the fee interest;
- (3) If the apartment lease is a sublease, any assignment or other conveyance of the sublessor's estate or any other leasehold estate which is superior to the apartment lease, and any other instrument mortgaging, encumbering, or otherwise dealing with the sublessor's estate or any other estate which is prior and superior to the leasehold time share interest;
- (4) Any other instrument assigning, modifying, canceling, or otherwise dealing with an interest in registered land which is:
  - (A) Less than an estate in fee simple; and
  - (B) Prior or superior to the lessee's interest in a leasehold time share interest;
- (5) The declaration of condominium property regime or similar declaration by whatever name denominated, the bylaws of the association of apartment owners, the condominium map, any declaration of annexation or deannexation, any declaration of merger and any instrument effecting a merger, and any amendments to any of the foregoing and any cancellation or extinguishment thereof;
- (6) Any declaration of covenants, conditions and restrictions or similar instrument, by whatever name denominated, encumbering the fee, the bylaws of any homeowners association, any declaration of annexation or deannexation, any amendments and supplements thereto, and any cancellation or extinguishment thereof;

- (7) Any declaration of covenants, conditions, restrictions, or similar instrument, by whatever name denominated, establishing the time share plan, the bylaws of the time share owners association, any declaration of annexation or deannexation, any amendments and supplements thereto, and any cancellation or extinguishment thereof; and
- (8) Any notice of time share plan, any declaration of annexation or deannexation, any amendments thereto, and any cancellation or extinguishment thereof.

(f) The execution or joinder of the lessees of the leasehold time share interests shall not be required for the registration or notation of instruments which must be registered and noted pursuant to subsection (e), above; provided, however, an instrument amending, canceling, or extinguishing an apartment lease shall not be registered unless such instrument is:

- (1) Required to be registered by order of a court of competent jurisdiction;
- (2) Executed by officers of the time share owners association pursuant to any registered time share instrument or power of attorney which authorizes the time share owners association, its board, or its officers, to deal with issues arising under the apartment lease; or
- (3) Accompanied by an affidavit of an officer of any title insurer or underwritten title company, as defined in section 431:20-102, stating that based upon a search of the records of title to the apartment lease, the parties who executed and acknowledged the instrument amending, canceling, or extinguishing the apartment lease are the owners of the leasehold time share interests in such apartment and/or their duly authorized attorney(s)-in-fact. In the event that the affidavit is incorrect and the title insurer or underwritten title company acted with gross negligence or in bad faith in making the affidavit, the title insurer or underwritten title company shall be liable to the owners of the leasehold time share interests for treble damages and reasonable attorneys' fees and costs.

This section shall not alter the rights of the parties to any such instrument.

**§501- Status of leasehold time share interest as real property.** Nothing in this part shall affect the status of a leasehold time share interest as real property.

**§501- Dual recording involving leasehold time share interests.** Nothing in this part shall prevent or prohibit the registration of an instrument which assigns or affects both:

- (1) One or more leasehold time share interests; and
- (2) One or more interests in registered land other than a leasehold time share interest.

**§501- Assignment of leasehold time share interest.** Any instrument which first assigns or otherwise conveys a leasehold time share interest shall refer to the land court document number of the apartment lease or the most recent assignment of the whole thereof, whichever is later. Any subsequent instrument of assignment or conveyance shall refer to the book and page or bureau of conveyances document number of the prior instrument of assignment or conveyance for the leasehold time share interest acquired.

**§501- Reference to recorded instruments pertaining to leasehold time share interests.** Any instrument assigning, conveying, or otherwise dealing with a leasehold time share interest and which requires a reference to a prior recorded instrument may satisfy the requirements of section 502-33 by reference to the land

court document number (in the case of a document recorded pursuant to chapter 501) or to the book and page or bureau of conveyances document number (in the case of a document recorded pursuant to chapter 502) of the instrument to which reference is made.

**§501- Legal incidents of a leasehold time share interest.** A leasehold time share interest, and ownership therein, shall in all respects be subject to the same burdens and incidents which attach by law to the lessee's interest in a leasehold apartment that is part of a condominium property regime established on unregistered land and which is not utilized in a time share plan.

Nothing in this part shall, in any way, be construed to relieve a leasehold time share interest or the owners thereof:

- (1) From any rights incident to the relation of husband and wife;
- (2) From liability to attachment or mesne process or levy on execution;
- (3) From liability to any lien of any description established by law on the leasehold time share interest, or in the interest of the owner in the leasehold time share interest;
- (4) To change the laws of descent;
- (5) The rights of partition between coparceners and other cotenants;
- (6) The right to take the same by eminent domain;
- (7) To relieve such leasehold time share interest from liability to be recovered by a trustee in bankruptcy under the provisions of law relating to preferences; or
- (8) To change or affect in any way any other rights or liabilities created by law and applicable to the lessee's interest in a leasehold apartment which is part of a condominium property regime established on unregistered land and which is not utilized in a time share plan; except as otherwise expressly provided in this part.

**§501- Voluntary dealing with a leasehold time share interest.** (a) Except as otherwise provided in this part, an owner of a leasehold time share interest may convey, mortgage, sublease, charge, or otherwise deal with the same as if the condominium to which it pertains was established on unregistered land. The owner may use forms of assignments, mortgages, or other voluntary instruments like those now in use and sufficient in law for the purpose intended.

(b) Notwithstanding subsection (a) and section 502-83, no assignment, mortgage, or other voluntary instrument (except a will, a lease for a term not exceeding one year, or an instrument required by this part to be registered in the land court and which is so registered) purporting to assign or affect a leasehold time share interest, shall take effect as a conveyance or bind the leasehold time share interest, but shall operate only as a contract between the parties, and as evidence of authority to the registrar or assistant registrar. The act of recordation pursuant to chapter 502 shall be the operative act to assign or affect the leasehold time share interest.

**§501- Jurisdiction for matters pertaining to leasehold time share interests.** The land court shall have jurisdiction over all matters relating to instruments required by this part to be registered pursuant to this chapter. Where any party is in doubt as to whether an instrument must be registered, the question shall be referred to the land court for decision; and the court, after notice to all parties and a hearing, shall enter an order determining the question. Except as expressly otherwise provided in this section, nothing in this part shall deprive the land court of exclusive jurisdiction pursuant to section 501-101 over registered land, or any interest therein, which is prior or superior to the interest of the lessee of a leasehold time share

interest. The circuit court shall have jurisdiction, pursuant to section 603-21.5(3), over:

- (1) All matters relating to instruments required by this part to be recorded pursuant to chapter 502;
- (2) All other matters pertaining to a leasehold time share interest (except those in which jurisdiction is vested in the land court pursuant to this section); and
- (3) All matters as to which jurisdiction would otherwise lie in the land court in part and in the circuit court in part.”

SECTION 2. Section 53-60, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) Complaints or orders issued pursuant to an ordinance adopted under this section shall be served upon persons either personally or by registered mail, but if the whereabouts of the persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the persons may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the county, or, in the absence of such newspaper, in one printed and published in the State and circulating in the county in which the dwellings are located. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of the complaint or order shall also be filed with the registrar of conveyances or, in the case of registered land[,] (but excluding a leasehold time share interest), with the assistant registrar of the land court as provided in section 501-136, and the filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law.”

SECTION 3. Section 132-7, Hawaii Revised Statutes, is amended to read as follows:

“**§132-7 Duty of owner to remove fire hazard; expense; lien.** If the owner or occupant, to whom the order is directed, fails to comply with the order, or with the order as modified on appeal, and within the time therein fixed, then the county fire chief may cause the buildings, structures, or premises to be repaired, torn down, demolished, materials removed, and all dangerous conditions remedied, as the case may be, at the expense of the owner or occupant, and, if the owner or occupant within thirty days thereafter fails, neglects, or refuses to pay the county fire chief the expense incurred thereby by the fire chief, the county shall have a prior lien for the expense on the real estate on which the buildings or structures were located, or on the premises involved, by the filing of a notice of lien in the bureau of conveyances or [with the assistant registrar of the land court, if the real estate or premises involved is registered in the land court.] in the office of the assistant registrar of the land court, or both, as appropriate.”

SECTION 4. Section 181-7, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any unexpired permit shall be effective only so long as the operator possesses the legal right and power by legal estate owned to strip mine from the land described in the permit. All authority of the board of land and natural resources to enforce the requirements prescribed in section 181-6 shall terminate within ten years after the end of the permit year in which strip mining was completed or abandoned

## ACT 219

upon the land unless before the end of the period he has served upon the operator written directions to comply therewith. The board shall release from the effect of this chapter, either by reason of compliance or limitation of time, all or any part of the land affected by this chapter by filing in the bureau of conveyances of the State, or [with] in the office of the assistant registrar of the land court [if title to the land is registered], or both, as appropriate, a written release in form prepared by the board.”

SECTION 5. Section 246-55, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) In case of cotenancy, if one cotenant pays, within the period of the aforesaid government lien, all of the real property taxes, interest, penalties, and other additions to the tax, due and delinquent at the time of payment, the cotenant shall have, pro tanto, a lien on the interest of any noncontributing cotenant upon recording in the bureau of conveyances, within ninety days after the payment so made by the cotenant, a sworn notice setting forth the amount claimed, a brief description of the land affected by tax key or otherwise, sufficient to identify it, the tax year or years, and the name of the cotenant upon whose interest such lien is asserted. When a notice of such tax lien is recorded by a cotenant, the registrar shall forthwith cause the same to be indexed in the general indexes of the bureau of conveyances. In case the land affected is registered in the land court and is not a leasehold time share interest as described in section 501-20, the notice shall also contain a reference to the number of the certificate of title of such land and shall be filed and registered in the office of the assistant registrar of the land court, and the registrar, in the registrar’s capacity as assistant registrar of the land court, shall make a notation of the filing thereof on each land court certificate of title so specified.

The cotenant’s lien shall have the same priority as the lien or liens of the government for the taxes paid by the cotenant, and may be enforced by an action in the nature of a suit in equity. The lien shall continue for three years after recording or registering, or until termination of the proceedings for enforcement thereof if such proceedings are begun and notice of the pendency thereof is recorded or filed and registered as provided by law, within the period.

(c) The director or the director’s subordinate, in case of a government lien, and the creditor cotenant, in case of a cotenant’s lien, at the expense of the debtor, upon payment of the amount of the lien, shall execute and deliver to the debtor a sworn satisfaction thereof, including a reference to the name of the person assessed or cotenant affected as shown in the original notice, the date of filing of the original notice, a description of the land involved[,] and, except with respect to a leasehold time share interest as described in section 501-20, the number of the certificate of title of such land if registered in the land court, which, when recorded in the bureau of conveyances or filed and registered in the office of the assistant registrar of the land court, in the case of a cotenant’s lien, which contains the reference to the book and page or document number of the original lien, shall be entered in the general indexes of the bureau of conveyances, and if a notation of the original notice was made on any land court certificate of title the filing of such satisfaction shall also be noted on the certificate.

This section as to cotenancy shall apply, as well, in any case of ownership by more than one assessable person.”

SECTION 6. Section 501-20, Hawaii Revised Statutes, is amended by adding five new definition to be appropriately inserted and to read as follows:

“**§501-20 Definitions.** As used in this chapter, unless the context otherwise requires:<sup>1</sup>

“Apartment lease” means an apartment lease, a condominium conveyance document, an apartment deed and ground lease, or other instrument which has been registered pursuant to section 501-121 and which leases or subleases a condominium apartment or its appurtenant undivided interest in the land of a condominium project established or existing under the condominium property act or at common law.

“Leasehold time share interest” means a time share interest consisting of an undivided interest in an apartment lease.

“Notice of time share plan” means a notice of time share plan as that term is defined in chapter 514E.

“Time share interest” means a time share interest as that term is defined in chapter 514E.

“Time share plan” means a time share plan as that term is defined in chapter 514E.”

SECTION 7. Section 501-82, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) Every applicant receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes a certificate of title for value and in good faith, hold the same free from all encumbrances except those noted on [a] the certificate in the order of priority of recordation, and any of the following encumbrances which may be subsisting, namely:

- (1) Liens, claims, or rights arising or existing under the laws or Constitution of the United States, which the statutes of this State cannot require to appear of record in the registry; provided that notices of liens for internal revenue taxes payable to the United States, and certificates affecting such liens, shall be deemed to fall within this paragraph only if the same are recorded in the bureau of conveyances as provided by chapter 505[.];
- (2) Unpaid real property taxes assessed against the land and improvements covered by the certificate of title, with interest, penalties, and other additions to the tax, which, unless a notice is filed and registered as provided by county real property tax ordinance, shall be for the period of three years from and after the date on which the lien attached, and if proceedings for the enforcement or foreclosure of the tax lien are brought within the period, until the termination of the proceedings or the completion of the tax sale[.];
- (3) State tax liens, if the same are recorded in the bureau of conveyances as provided by section 231-33[.];
- (4) Any public highway, or any private way laid out under the provisions of law, when the certificate of title does not state that the boundary of such way has been determined[.];
- (5) Any lease, coupled with occupancy, for a term not exceeding one year; provided that the priority of the unrecorded lease shall attach only at the date of the commencement of the unrecorded lease and expire one year from the date or sooner if so expressed[.];
- (6) Any liability to assessments for betterments, or statutory liability which may attach to land as a lien prior to or independent of, the recording or registering of any paper of the possibility of a lien for labor or material furnished in the improvement of the land; provided that the priority of any such liability and the lien therefor (other than for labor and material furnished in the improvement of the land which shall be governed by section 507-43) shall cease and terminate three years after the liability

first accrues unless notice thereof, signed by the officer charged with collection of such assessments or liability, setting forth the amount claimed, the date of accrual, and the land affected, is registered and noted on the certificate of title within such three year period; provided further that if there are easements or other rights, appurtenant to a parcel of registered land which for any reason have failed to be registered, such easements or rights shall remain so appurtenant notwithstanding such failure, and shall be held to pass with the land until cut off or extinguished by the registration of the servient estate, or in any other manner[.];

- (7) The possibility of reversal or vacation of the decree of registration upon appeal[.]; or
- (8) Any encumbrance not herein required to be registered as provided in chapter 501, part \_\_\_\_\_ and relating to a leasehold time share interest.”

2. By amending subsection (c) to read:

“(c) [If] Except as provided in chapter 501, part \_\_\_\_\_, if the title of a recorded document indicates that it contains an encumbrance, the assistant registrar shall note the document as an encumbrance on the certificate of title or the new certificate of title issued upon recordation of such document, as applicable.”

SECTION 8. Section 501-103, Hawaii Revised Statutes, is amended to read as follows:

“**§501-103 Conveyances of less than fee simple.** No new certificate shall be entered or issued upon any transfer of registered land which does not divest the title in fee simple from the owner or one of the registered owners. [All] Except as provided in chapter 501, part \_\_\_\_\_, all interests in registered land less than an estate in fee simple shall contain a reference to the document number of the interest acquired and shall be registered by recording with the assistant registrar the instrument creating or transferring or claiming such interest, and by a brief memorandum thereof made by the assistant registrar upon the certificate of title, and signed by the assistant registrar. [The] Except as provided in chapter 501, part \_\_\_\_\_, the cancellation or extinguishment of such interests shall be recorded in the same manner.”

SECTION 9. Section 501-110, Hawaii Revised Statutes, is amended to read as follows:

“**§501-110 Statement of encumbrances.** If at the time of any transfer there appears upon the registration book encumbrances or claims adverse to the title of the registered owner, they shall be stated in the new certificate or certificates, except as far as they may be simultaneously released or discharged[.] and except as provided in chapter 501, part \_\_\_\_\_.”

SECTION 10. Section 507-43, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Time for filing. The Application and Notice shall be filed not later than forty-five days after the date of completion of the improvement against which it is filed. Where title to the property involved, or any portion thereof, is registered in the land court and the lien is not claimed solely against the lessees’ interest in one or more leasehold time share interests as described in section 501-20, it shall be incumbent upon the lienor to file a certified copy of the Order Directing Lien To Attach in the office of the assistant registrar of the land court within seven days after

the entry thereof in order to preserve the lienor's rights against subsequent encumbrancers and purchasers of the property.”

SECTION 11. Section 507-45, Hawaii Revised Statutes, is amended to read as follows:

“**§507-45 Discharge of lien.** Any mechanics’ and materialmen’s lien may be discharged at any time by the owner, lessee, principal contractor or intermediate subcontractor filing with the clerk of the circuit court of the county in which the property is located or with the assistant registrar of the land court (if registered land is affected[.]) except when the lien attaches solely to the interest of the lessees in one or more leasehold time share interests as described in section 501-20, cash or a bond for twice the amount of the sum for which the claim for the lien is filed, conditioned for the payment of any sum for which the claimant may obtain judgment upon the claimant’s claim.”

SECTION 12. Section 507-46, Hawaii Revised Statutes, is amended to read as follows:

“**§507-46 Priority, record of; satisfaction.** The lien shall relate to and take effect from the time of the visible commencement of operations for the improvement; it shall rank equally in priority subject to the provisos hereinafter contained with all other mechanics’ and materialmen’s liens and shall have priority over all other liens of any nature, except liens in favor of any branch of the government and mortgages, liens or judgments recorded or filed prior to the time of the visible commencement of operation; provided that all liens for wages for labor performed in the completion of the improvement, but not exceeding \$300 for each claimant, shall have priority as a class over all other mechanics’ and materialmen’s liens where claims are filed by [(1) the]:

- (1) The person who actually performed the labor; [(2) the]
- (2) The person’s legal representative in the event of death or incapacity[.]; or [(3) the]
- (3) The director of labor and industrial relations pursuant to chapter 371; and provided further that where a mortgage is recorded prior to the date of completion, and all or a portion of the money advanced under and secured by the mortgage is thereafter used for the purpose of paying for the improvement, the mortgagee shall be entitled, to the extent of the payments, to priority over liens of mechanics and materialmen, but no such priority shall be allowed unless the mortgage recites that the purpose of the mortgage is to secure the moneys advanced for the purpose of paying for the improvement in whole or in part. Payments made in good faith to the general contractor for such purposes shall be presumed to have been used for the purpose of paying for the improvement. Whenever the lien or claim of lien herein provided is satisfied (other than by the limitations expressed in section 507-43), a written notice thereof shall, at the expense of the lienee, be filed with the clerk of the circuit court, which shall be noted in the mechanics’ lien record, and if title to the land involved is registered in the land court[.] and the lien did not attach solely to the interest of the lessee in one or more leasehold time share interests, it shall also be filed in the office of the assistant registrar of the court.”

SECTION 13. Section 531-15, Hawaii Revised Statutes, is amended to read as follows:

**“§531-15 Determination of bar to dower or curtesy.** The bar to dower and curtesy or to rights by way of dower or curtesy provided by the second paragraph of sections 533-9 and 533-16, respectively, shall not operate except upon determination by order of a court of probate in proceedings for the administration of the estate, or by a court in proceedings for the determination of heirs, of the deceased spouse, and then only if claim of bar is made by a person claiming the estate, or any part thereof, or any interest therein. The spouse sought to be barred shall be notified of the claim and of the hearing thereon either by personal service or by publication of the notice thereof, in the manner provided for, and which may be included in, notice of determination of heirs or devisees or by both such personal and published service, as the court may direct. The order of determination shall be conclusive as to the rights of the surviving spouse, subject only to be reversed, set aside or modified on appeal. A certified copy of the order shall be recorded in the bureau of conveyances, in case the title to land is involved, and if the land affected has been registered in the land court, a like copy shall be filed in the office of the assistant registrar of the court[.] unless the interest of the deceased spouse in such land consists solely of one or more leasehold time share interests as described in section 501-20.”

SECTION 14. Section 634-51, Hawaii Revised Statutes, is amended to read as follows:

**“[[§634-51]] Recording of notice of pendency of action.** In any action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and any other party at the time of filing a pleading in which affirmative relief is claimed, or at any time afterwards, may record in the bureau of conveyances a notice of the pendency of the action, containing the names or designations of the parties, as set out in the summons or pleading, the object of the action or claim for affirmative relief, and a description of the property affected thereby. From and after the time of recording the notice, a person who becomes a purchaser or incumbrancer of the property affected shall be deemed to have constructive notice of the pendency of the action and be bound by any judgment entered therein if the person claims through a party to the action; provided that in the case of registered land, section 501-151 and chapter 501, part shall govern.

This section authorizes the recording of a notice of the pendency of an action in a United States District Court, as well as a state court.”

SECTION 15. Section 636-3, Hawaii Revised Statutes, is amended to read as follows:

**“§636-3 Judgment, lien when.** Any money judgment or decree of a state court or the United States District Court for the District of Hawaii shall be a lien upon real property when a copy thereof, certified as correct by a clerk of the court where it is entered, is recorded in the bureau of conveyances. No such lien shall continue beyond ten years after the date of the judgment. Except as otherwise provided, every judgment shall contain or have endorsed on it the social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number for persons, corporations, partnerships, or other entities against whom the judgment is rendered. If the judgment debtor has no social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, the judgment shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking recordation of the judgment. Failure to

disclose or disclosure of an incorrect social security number, State of Hawaii general excise taxpayer identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recordation of the judgment. When any such judgment is fully paid, the creditor or the creditor's attorney of record in the action shall, at the expense of the debtor, execute, acknowledge, and deliver to the debtor a satisfaction thereof, which may be recorded in the bureau. Every satisfaction or assignment of judgment shall contain a reference to the book and page or document number of the registration of the original judgment. The recording fees for a judgment and for each assignment or satisfaction of judgment shall be as provided by section 502-25.

In the case of registered land, section 501-102 and chapter 501, part \_\_\_\_\_ shall govern.”

SECTION 16. Nothing contained in this Act shall in any manner affect any determination made in connection with the original land court registration of title to any land or made in connection with the issuance of any certificate of title by the land court subsequent to the original registration. All instruments, documents, and papers registered by the land court and every entry and endorsement of any memorials upon any such certificate of title shall be considered to form part of the record chain of title of a leasehold time share interest and afford constructive notice of their contents to the same extent as though they appeared of record in the bureau of conveyances; provided that no such instrument, document, paper, entry, or endorsement shall have any greater or other effect after June 30, 1999, as constructive notice or otherwise, than it had or acquired at the time it was registered in land court or made; and provided further that nothing contained in this Act shall be construed as giving any greater or other effect, as constructive notice or otherwise, to any instrument, document, or paper recorded in the bureau of conveyances prior to July 1, 1999, as to any leasehold time share interest than was provided by the laws of this State (including chapter 501, Hawaii Revised Statutes, and other laws regarding property registered in land court) in effect at the time such instrument, document or paper was recorded. (Illustration: A recorded judgment is not a lien against the interest of the lessee of a leasehold time share interest unless registered; and such judgment, recorded but not registered prior to July 1, 1999, will, under this section, not constitute a lien on the interest of the lessee in a leasehold time share interest after June 30, 1999, until recorded anew.)

SECTION 17. Nothing contained in this Act shall terminate, extinguish, diminish, or impair any existing right in or pertaining to any leasehold time share interest, title to which had been registered in land court before July 1, 1999, or any existing right to any compensation created by chapter 501, Hawaii Revised Statutes, but any such right may be asserted and enforced in the same manner, to the same extent, and subject to the same limitations, provided in the land court laws amended by this Act. This section is subject to section 16.

SECTION 18. All acts passed by the legislature during this regular session of 1998, whether enacted before or after the effective date of this Act, shall be amended to conform with this Act unless such acts specifically provide that this Act is being amended.

SECTION 19. Statutory material to be repealed is bracketed. New statutory material is underscored.

## **ACT 219**

**SECTION 20.** This Act shall take effect on July 1, 1999.

(Approved July 17, 1998.)

### **Note**

1. So in original.