

A Bill for an Act Relating to Bureau of Conveyances.

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

SECTION 1. The joint legislative investigative committee established pursuant to Senate Concurrent Resolution No. 226, adopted during the regular session of 2007, identified serious shortcomings relating to the bureau of conveyances' operational mismanagement, potential loss of revenue, and potential areas of vulnerability. The joint legislative investigative committee recognized that automation of certain functions in the bureau of conveyances may address one of the major underlying problems: work backlog. Modernizing through electronic recordation will improve efficiency; however, a gradual approach will prevent the existing work backlog from increasing due to a shift in procedures.

The purpose of this Act is to ease the backlog in bureau of conveyances and land court recording and registration by:

- (1) Transferring fee simple time share interest from the land court system (Torrens) to the regular system;
- (2) Allowing an owner of a fee interest in land registered in the land court system to transfer the interest to the regular system;
- (3) Allowing electronic recording of instruments in the land court and regular system; and
- (4) Establishing a pilot program to implement electronic recording of fee simple time share interests.

SECTION 2. Chapter 501, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART II. DEREGISTRATION

§501-A Deregistration of fee interests. (a) Upon presentation to the assistant registrar for filing or recording of any instrument, document, or paper conveying or encumbering a fee time share interest or any interest therein, or upon the written request under subsection (d) of the registered owner of the fee interest in registered land, the assistant registrar shall not register the same, but shall:

- (1) Record in the bureau of conveyances, pursuant to chapter 502, the current certificate of title for the fee interest in the registered land or the registered land in which the fee time share interest includes an undivided interest; provided that:
 - (A) Prior thereto, the assistant registrar shall note on the certificate of title all documents and instruments that have been accepted for registration and that have not yet been noted on the certificate of title; and
 - (B) If separate certificates of title have been issued for individual fee time share interests in the time share plan, the assistant registrar shall record in the bureau of conveyances, pursuant to chapter 502, the certificate of title for each fee time share interest in the time share plan;
- (2) Record in the bureau of conveyances, pursuant to chapter 502, the instrument, document, paper, or written request for deregistration presented to the assistant registrar for filing or recording. The in-

strument, document, paper, or request shall be recorded immediately after the certificate or certificates of title; and

(3) Cancel the certificate of title.

(b) The registrar or assistant registrar shall note the recordation and cancellation of the certificate of title in the registration book and in the records of the application for registration of the land that is the subject of the certificate of title. The notation shall state the bureau of conveyances document number for the certificate of title so recorded, the certificate of title number, and the land court application number, map number, and lot number for the land that is the subject of the certificate of title so recorded.

(c) No order of court shall be required prior to or in connection with the performance of any of the foregoing actions.

(d) The registered owner of the fee interest in registered land may submit a written request to the assistant registrar to deregister the land under this chapter. Any written request for deregistration shall include proof of title insurance in the amount of the value of the land to be deregistered and a written waiver of all claims against the State relating to the title to the land arising after the date of deregistration.

§501-B Effect of deregistration. (a) Upon the recordation in the bureau of conveyances of a certificate of title pursuant to section 501-A:

(1) The deregistered land shall no longer be registered land for purposes of this chapter;

(2) No instruments, documents, or papers relating solely to deregistered land shall be filed or recorded with the assistant registrar pursuant to this chapter, but shall instead be recorded in the bureau of conveyances pursuant to chapter 502; and

(3) Except as otherwise expressly provided in this chapter, chapter 502 shall apply to the deregistered land.

(b) Recordation of a certificate of title pursuant to section 501-A shall not disturb the effect of any proceedings in the land court where the question of title has been determined. All proceedings had in connection with the registration of title that relate to the settlement or determination of title before that recording, and all provisions of this chapter that relate to the status of the title, shall have continuing force and effect with respect to the period of time that title remained under the land court system. Those provisions giving rise to a right of action for compensation from the State, including any limits on and conditions to the recovery of compensation and the State's rights of subrogation with respect thereto, shall also continue in force and effect with respect to the period of time that title remained under the land court system.

§501-C Effect of deregistration in specific cases. Notwithstanding section 501-B(a)(3), the following documents, instruments, and papers 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) Any document, instrument, or paper assigning, extending, continuing, dissolving, discharging, releasing in whole or in part, reducing, canceling, extinguishing, or otherwise modifying or amending any of the following documents, instruments, or papers that have been registered pursuant to this chapter and that pertain to deregistered land:

(A) A mortgage;

(B) An agreement of sale for the sale of a fee time share interest or interest in other deregistered land. After the recordation of

- the certificate of title, any agreement of sale shall be subject to section 502-85 and shall not be subject to section 501-101.5;
- (C) A correction deed, correction mortgage, or other document, instrument, or paper correcting a document, instrument, or paper registered pursuant to this chapter;
 - (D) A lien or claim of lien on a fee time share interest held or claimed by a time share owners association, an association of apartment owners, or other homeowners' association or a lien or claim on an interest in other deregistered land held by a lienor or person claiming a lien;
 - (E) A lease that demises a fee time share interest or interest in other deregistered land;
 - (F) An order of court, attachment, writ, or other process against a fee time share interest or interest in other deregistered land;
 - (G) A mechanic's or materialman's lien or other lien upon a fee time share interest or interest in other deregistered land;
 - (H) 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 fee time share interest or interest in other deregistered land 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; or
 - (I) A power of attorney given by the owner of a fee time share interest or interest in other deregistered land or the vendor or vendee under an agreement of sale for the sale of a fee time share interest or interest in other deregistered land, a mortgagee or other lienor having a mortgage or lien upon a fee time share interest or interest in other deregistered land, or another party holding a claim or encumbrance against or an interest in a fee time share interest or interest in other deregistered land;
- (2) 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 fee time share interest or interest in other deregistered land 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; and
 - (3) Any declaration annexing property to, any declaration deannexing property from, any amendment or supplement to, correction of, or release or termination of, any of the following documents, instruments, or papers that have been registered pursuant to this chapter and that pertain to deregistered land:
 - (A) A declaration of covenants, conditions, restrictions, or similar instrument, by whatever name denominated, establishing or governing a time share plan, or the bylaws of a time share owners association, notice of time share plan, or other time share instrument;
 - (B) A 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 merger and any instrument effecting a merger; provided that if only some of the condominium apartments

are included in the time share plan, then it shall be necessary to register, and to note on the certificate of title for any apartment not included in the time share plan:

- (i) Any declaration annexing property to the condominium property regime;
 - (ii) Any declaration deannexing property from the condominium property regime;
 - (iii) Any instrument effecting a merger of two or more condominium projects or two or more phases of a condominium project; and
 - (iv) Any document, instrument, or paper amending, supplementing, correcting, releasing, or terminating any of the documents listed in subparagraph (B)(i) through (iii), the declaration of condominium property regime, the bylaws of the association of apartment owners, the condominium map, or any declaration of merger; and
- (C) A declaration of covenants, conditions, restrictions, or similar instrument, by whatever name denominated, the bylaws of any homeowners association, any declaration of annexation or deannexation, any amendments and supplements thereto, and any cancellation or extinguishment thereof, any declaration of merger and any instrument effecting a merger; provided that if only some of the parcels of land covered by the declaration constitutes deregistered land, and if one or more of the remaining parcels constitute registered land, then it shall be necessary to register, and to note on the certificate of title for any registered land:
- (i) Any declaration annexing property to the declaration;
 - (ii) Any declaration deannexing property from the operation of the declaration; and
 - (iii) Any document, instrument, or paper amending, supplementing, correcting, releasing, or terminating any of the documents listed in subparagraph (C)(i) or (ii), the declaration of covenants, conditions, restrictions, or the bylaws of the homeowners association.

§501-D Chain of title of deregistered land. (a) A certificate of title recorded pursuant to section 501-A shall constitute a new chain of record title in the registered owner of any estate or interest as shown on the certificate of title so recorded, subject only to the following:

- (1) The estates, mortgages, liens, charges, instruments, documents, and papers noted on the certificate of title so recorded;
- (2) 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 the 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;
- (3) Unpaid real property taxes assessed against the land and improvements covered by the certificate of title as recorded, 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;
- (4) State tax liens, if the same are recorded in the bureau of conveyances as provided by section 231-33;
 - (5) 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 the way has been determined;
 - (6) 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;
 - (7) Any liability to assessments for betterments, or statutory liability that 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 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 the assessments or liability, setting forth the amount claimed, the date of accrual, and the land affected, is recorded in the bureau of conveyances pursuant to chapter 502 within the three-year period; and provided further that if there are easements or other rights, appurtenant to a parcel of deregistered land, which for any reason have failed to be deregistered, the easements or rights shall remain so appurtenant notwithstanding the failure, and shall be held to pass with the deregistered land until cut off or extinguished in any lawful manner;
 - (8) The possibility of reversal or vacation of the decree of registration upon appeal;
 - (9) Any encumbrance not required to be registered as provided in sections 501-241 to 501-248 and relating to a leasehold time share interest or leasehold interest in deregistered land; and
 - (10) Child support liens that are created pursuant to order or judgment filed through judicial or administrative proceeding in this State or in any other state, the recording of which shall be as provided by chapter 576D.
- (b) For purposes of this section, an encumbrance shall be deemed sufficiently noted on a certificate of title if the notation:
- (1) References a document by name or number that contains an encumbrance; and
 - (2) Indicates that the referenced document contains an encumbrance to which the deregistered land is subject.
- (c) All instruments, documents, and papers noted on a certificate of title recorded pursuant to section 501-A shall have the same force and effect as if they had been recorded in the bureau of conveyances pursuant to chapter 502 as of the date, hour, and minute of reception noted on the certificate of title pursuant to section 501-107; provided that:
- (1) No instrument, document, or paper shall have any greater or other effect after the certificate of title is recorded pursuant to section 501-A, as constructive notice or otherwise, than it had or acquired at the time it was registered pursuant to this chapter or made; and

- (2) Nothing in this part 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 pursuant to chapter 502 prior to the recordation of the certificate of title pursuant to section 501-A as to any land, than was provided by the laws of this State (including this chapter and other laws regarding registered land) in effect at the time the instrument, document, or paper was recorded.

(d) If a certificate of title recorded pursuant to section 501-A relates to more than one fee time share interest or more than one interest in other deregistered land, then subsection (a) shall apply to each interest separately and only those items described in subsection (a) that encumbered a particular interest prior to recordation of the certificate of title will continue to encumber that interest after the recordation.

§501-E Status of fee time share interest and other interest in deregistered land as real property. Nothing in this part shall affect the status of a fee time share interest or other interest in deregistered land as real property.

§501-F Dual recording involving deregistered land. Nothing in this part shall prevent or prohibit the registration of an instrument that conveys, assigns, or affects both registered land and deregistered land.

§501-G Reference to prior recorded instrument. Any instrument conveying or otherwise dealing with deregistered land 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-H Legal incidents of deregistered land. Nothing in this part shall in any way be construed to relieve deregistered land or the owners of deregistered land from:

- (1) Any rights incident to the relation of husband and wife;
- (2) Liability to attachment or mesne process or levy on execution;
- (3) Liability to any lien of any description established by law on the deregistered land, or in the interest of the owner in the deregistered land;
- (4) The right 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) Liability to be recovered by a trustee in bankruptcy under the provisions of law relating to preferences;
- (8) Any other rights or liabilities created by law and applicable to the owner of a condominium apartment that is part of a condominium property regime established on registered land and which is not used in a time share plan, except as otherwise expressly provided in this part; or
- (9) Any other rights or liabilities created by law and applicable to the deregistered land, except as otherwise expressly provided in this part.

§501-I Jurisdiction for matters pertaining to deregistered land. 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. Notice to the owner of a fee time share interest shall be given by mailing notice to the association of time share owners required to be established pursuant to section 514E-29, and the association shall represent the owners in any matters and proceedings, without prejudice to the right of any individual owner to appear and be heard as a separate party. Except as expressly provided in this section, nothing in this part shall deprive the land court of exclusive jurisdiction pursuant to section 501-1 over registered land, or any interest therein, other than registered land that becomes deregistered land. The circuit court shall have jurisdiction, pursuant to section 603-21.5(a)(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 deregistered land (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 3. Chapter 501, Hawaii Revised Statutes, is amended by designating sections 501-1 to 501-248 as part I, entitled:

"PART I. GENERAL PROVISIONS"

SECTION 4. Chapter 657, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

"§657- Deregistered land. In no event shall the period of limitations provided in this part begin prior to the recordation of the certificate of title for deregistered land."

SECTION 5. Section 501-20, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to be appropriately inserted and to read as follows:

"Deregistered land" means land that is the subject of a certificate of title recorded pursuant to section 501-A.

"Fee time share interest" means a time share interest, other than a leasehold time share interest, that consists of or includes a present, undivided interest in registered land, including an undivided interest in one or more fee simple condominium apartments established in whole or in part on registered land."

2. By amending the definition of "signature" to read:

"Signature" means the name of a person as written by the individual [øf], the affixing of a mark or finger or toe print[-], or electronic signature as that term is defined in chapter 489E."

SECTION 6. Section 501-71, Hawaii Revised Statutes, is amended to read as follows:

“§501-71 Decree of registration; conditional when; quieting title, exceptions; reopened when. (a) If the court after a hearing finds that the applicant, at the time of filing an application, or subsequently, had title, as stated in the application, that the title is proper for registration, and that since filing the application, the title of the applicant has not been encumbered in any manner, then a decree of confirmation and registration as prayed for shall be entered.

(b) If the court finds that the applicant, at the time of filing an application, or subsequently, had title, as stated in the application, that the title is proper for registration, and that subsequent to the filing of the application, the title has been encumbered, then the title shall be registered subject to the encumbrances so found.

(c) If the court finds that the applicant, at the time of filing an application, or subsequently, had title, as stated in the application, that the title is proper for registration, and that subsequent to filing the application, the applicant has conveyed away all or any portion or portions of the premises or interest therein sought to be registered, then a decree of confirmation and registration shall be entered, covering the entire premises, confirming title in the applicant and the person or persons deriving their title through the applicant, to the premises or interest in accordance with the applicant's or their respective true ownership of the whole or any portion or portions thereof or interest therein at the time of filing the decree, and subject to all encumbrances affecting all or any portion thereof.

(d) Every decree of registration of absolute title shall bind the land, and quiet the title thereto, subject only to the exceptions stated in section 501-82. It shall be conclusive upon and against all persons, including the State, whether mentioned by name in the application, notice, or citation, or included in the general description “to all whom it may concern.” The decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding for reversing judgments or decrees~~;~~ subject, to the right of ~~of~~, except that any person deprived of land or of any estate or interest therein by a decree of registration obtained by fraud ~~[to]~~ may file a petition for review within one year after the entry of the decree~~;~~ provided no, unless an innocent purchaser for value has acquired an interest. If there is any such purchaser, the decree of registration shall not be opened but shall remain in full force and effect forever, subject only to the right of appeal ~~[hereinbefore]~~ herein provided. Any person aggrieved by the decree in any case may pursue remedy by action of tort against the applicant or any other person for fraud, in procuring the decree.

(e) Deregistration pursuant to sections 501-A to 501-I shall not alter or revoke the conclusive nature or effect of a decree of registration, which shall continue to quiet the title to the deregistered land as to all claims arising prior to the recording of the certificate of title pursuant to section 501-A, except claims as would not otherwise be barred under this chapter if the lands were not registered.”

SECTION 7. Section 501-86, Hawaii Revised Statutes, is amended to read as follows:

“§501-86 Registration runs with land. The obtaining of a decree of registration, and the entry of a certificate of title, shall be regarded as an agreement running with the land, and binding upon the applicant and all the applicant's successors in title, that the land shall be and forever remain registered land, and subject to this chapter ~~[and of all acts in amendment hereof]~~, except as provided in part II.”

SECTION 8. Section 501-108, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) An owner desiring to convey in fee registered land or any portion thereof shall execute a deed of conveyance, which the grantor or the grantee may present to the assistant registrar in the bureau of conveyances; provided that no deed, mortgage, lease, or other voluntary instrument shall be accepted by the assistant registrar for registration unless a reference to the number of the certificate of title of the land affected by such instrument is incorporated in the body of the instrument tendered for registration. If the certificate reference in the instrument is not current, an endorsement of the current certificate of title shall be required.

The assistant registrar shall note upon all instruments filed or recorded concurrently with the recorded instrument the document number ~~[and]~~, the certificate of title number, and, in the case of deregistered land, the bureau of conveyances document number in the spaces provided therefor wherever required.

~~[The]~~ Except as otherwise provided in section 501-A:

- (1) The assistant registrar shall thereupon, in accordance with the rules and instructions of the court, make out in the registration book a new certificate of title to the grantee[-];
- (2) The assistant registrar shall note upon the original certificate the date of transfer, and a reference by number to the last prior certificate[-];
- (3) The original certificate shall be stamped “canceled”[-]; and
- (4) The deed of conveyance shall be filed or recorded and endorsed with the number and place of registration of the certificate of title of the land conveyed.”

2. By amending subsection (d) to read:

“(d) The assistant registrar may refuse to file or record any instrument that will not reproduce legibly under photographic, electronic, or electrostatic methods, or that is of a size larger than eight and one-half inches by eleven inches, or that contains a schedule, inventory sheet, or map in excess of that size. Notwithstanding any other law to the contrary, the assistant registrar may accept an electronic instrument in lieu of an original instrument with original signatures subject to the requirements set forth in rules adopted by the supreme court of the State of Hawaii consistent with this section and chapter 489E.”

SECTION 9. Section 501-116, Hawaii Revised Statutes, is amended to read as follows:

“**§501-116 Mortgage registration necessary.** The owner of any interest in registered land may mortgage ~~[such]~~ the interest by executing a mortgage thereof. Such a mortgage may be assigned, extended, discharged, released in whole or in part, or otherwise dealt with by the mortgagee by any form of instrument sufficient in law for the purpose. ~~[The]~~ Except as provided in part II, the mortgage, and all instruments assigning, extending, discharging, and otherwise dealing with the mortgage, shall be registered and shall take effect upon the title of the mortgage property only from the time of registration.”

SECTION 10. Section 501-171, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) When the owner of registered land, or of any estate or interest therein, dies, having devised the same by will, the person or persons entitled thereto shall file or record with the assistant registrar of the land court a correct state-

ment of the full names of the devisees, the residence or post office address of each and their marital status and a reference to the number of the certificate of title of the land affected, a certified copy of the letters appointing the personal representative showing the powers of the personal representative, or a certified copy of an acknowledgment of authority, and either a certified copy of an order of the circuit court determining the persons entitled to distribution of the registered land and directing or approving distribution or a deed from the personal representative to the devisee or devisees, and thereupon the assistant registrar shall cancel the certificate issued to the testator, and, except as provided in part II, enter a new certificate to the devisee or devisees. When the owner of registered land or of any estate or interest therein dies, not having devised the same, the persons entitled thereto by law shall file or record with the assistant registrar a correct statement of the full names of the heirs, the residence or post office address of each, and their marital status, a certified copy of the letters appointing the personal representative showing the powers of the personal representative, or a certified copy of an acknowledgment of authority, and either a certified copy of an order of the circuit court in probate proceedings determining the persons entitled to distribution of the registered land and directing or approving distribution or a deed from the personal representative to the heir or heirs, and thereupon the assistant registrar shall cancel the certificate issued to the intestate, and, except as provided in part II, enter a new certificate to the heir or heirs entitled thereto."

SECTION 11. Section 502-7, Hawaii Revised Statutes, is amended by amending the definition of "signature" to read as follows:

""Signature" means the name of a person as written by the individual [øf], the affixing of a mark or finger or toe print[-], or electronic signature as that term is defined in chapter 489E."

SECTION 12. Section 502-8, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) All moneys in excess of \$500,000 remaining on balance in the bureau of conveyances special fund on June 30 of each year shall lapse to the credit of the state general fund[-]; provided that any balance of funds collected pursuant to section 16 of Act , Session Laws of Hawaii 2009, shall not lapse to the credit of the state general fund. On July 1 of each year, the director of finance is authorized to transfer any excess funds in the bureau of conveyances special fund to the state general fund."

SECTION 13. Section 502-31, Hawaii Revised Statutes, is amended to read as follows:

"§502-31 Recording, method. (a) The registrar shall make or cause to be made an entire literal copy of all instruments, with their original signatures, required to be recorded in the registrar's office, and the registrar, the registrar's deputy, or clerk shall certify its correspondence with the original, after which the registrar, the registrar's deputy, or clerk shall certify upon the exterior, or indorse upon the recorded instrument with the original signature, the date of its registry and the document number.

(b) The registrar, for purposes of the general indexes of the bureau of conveyances, shall use the names of the parties as they first appear in the recorded instrument. All names of all natural persons signing in their individual capacity shall be typewritten, stamped, legibly printed by hand, or by a mechanical or electrical printing method beneath all signatures. The provisions of this

[paragraph] subsection shall not apply to any deed or conveyance instrument executed prior to July 1, 1989.

(c) The registrar or the registrar's deputy may refuse to accept for record any document of a size larger than eight and one-half inches by eleven inches, or which contains a schedule or inventory sheet in excess of such size.

(d) This section shall apply to all instruments presented for recording in the bureau of conveyances, unless otherwise provided by rules adopted by the department of land and natural resources, pursuant to chapter 91.

(e) All instruments to be recorded shall include the original signature and the top three and one-half inches of space of the first page shall be reserved for recording information for the assistant registrar on the left half of such space, and for the registrar of conveyances on the right half of such space. The following one inch of space shall be reserved for information showing to whom the document should be returned beginning one and one-half inch from the left margin and not exceeding three and one-half inches per line. In addition, the first page shall identify and include, if possible, all names of the grantors and all names and addresses of the grantees, the type of document, and the tax map key number. Indorsements, if any, may be made on a conforming fly sheet. No papers or materials, written or otherwise, shall be secured or attached to a page in any manner that may conceal any other written text. If an instrument consists of more than one page, each page shall be single-sided sheets of written text numbered consecutively, beginning with number one, and shall be stapled once in the upper left corner. No instrument shall have a cover or backer attached. The registrar of conveyances shall be permitted to remove any rivets affixed to any instrument. The registrar may refuse to accept all instruments, papers, or notices presented for recordation that will not reproduce legibly under photographic, electronic, or electrostatic methods. Notwithstanding any other law to the contrary, the registrar may accept an electronic instrument in lieu of an original instrument with original signatures subject to the requirements set forth in rules adopted by the department of land and natural resources consistent with this section and chapter 489E."

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], sections 501-241 to 501-248, and sections 501-A to 501-I 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, orders, decrees; lien when. Any money judgment, order, 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 the length of time the underlying judgment, order, or decree is in force. Except as otherwise provided, every judgment shall contain or have endorsed on it the Hawaii tax identification number, the federal employer identification number, or the last four digits only of the social security number for persons, corporations, partnerships, or other entities against whom the judgment, order, or decree is rendered. If the debtor has no social security number, Hawaii tax identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, order, or decree, the judgment, order, or decree 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, Hawaii tax identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recordation of the judgment, order, or decree. When any judgment, order, or decree is fully paid, the creditor or the creditor’s attorney of record in the action [shall], at the expense of the debtor, shall execute, acknowledge, and deliver to the debtor a satisfaction thereof, which may be recorded in the bureau. Every satisfaction or assignment of judgment, order, or decree 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, order, or decree and for each assignment or satisfaction of judgment, order, or decree shall be as provided by section 502-25.

In the case of registered land, section 501-102 [and], sections 501-241 to 501-248, and sections 501-A to 501-I shall govern.”

SECTION 16. As of July 1, 2009, the department of land and natural resources shall assess a transaction fee of \$5 to be charged for each recording in the bureau of conveyances and in the office of the assistant registrar of the land court for services rendered by the bureau of conveyances pursuant to part II of chapter 501 and chapter 502, Hawaii Revised Statutes. The transaction fees collected shall be deposited to the credit of the bureau of conveyances special fund established under section 502-8, Hawaii Revised Statutes, and shall be used to support purchases of hardware, system design, and staff training related to automation of the bureau of conveyances.

SECTION 17. Fee time share interests electronic recordation; two-year pilot program; establishment. (a) The bureau of conveyances shall implement an integrated electronic filing system for electronic recordation of fee time share interests. The bureau of conveyances shall provide staff as needed for the implementation of the program. The goals of the program shall be to:

- (1) Design and implement an integrated electronic filing system for electronic recordation of fee time share interests; and
 - (2) Identify necessary employee training, changes in applicable administrative rules or procedures, and other relevant information necessary for the pilot program to be expanded to the entire regular system.
- (b) The bureau of conveyances shall submit a written report on the implementation of the integrated electronic filing system for electronic recordation of fee time share interests to the legislature no later than twenty days prior to the convening of the 2012 regular session. The report shall include findings and

recommendations, costs expended to date, and the estimated cost of implementation on a permanent basis for the entire regular system.

SECTION 18. There is created in the bureau of conveyances an employer-employee working group to resolve any issues that may arise in the implementation of section 2 of this Act and to make recommendations for the recovery of lost revenue due to deregistration of time shares. The working group shall be chaired by the registrar of the bureau of conveyances. Membership in the working group shall include the registrar of the bureau of conveyances or the registrar's designee, the land court registrar or the registrar's designee, and representatives of bureau of conveyances employees to be chosen by the employees according to a process prescribed by the registrar of the bureau of conveyances. The registrar of the bureau of conveyances shall prescribe rules and procedures for the conduct of the working group. The working group shall submit a report of its findings and activities to the legislature no later than twenty days before the commencement of the 2010 regular session.

SECTION 19. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

In printing this Act, the revisor of statutes shall substitute in section 502-8, Hawaii Revised Statutes, of section 12, the corresponding number of this Act.

SECTION 20. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 21. This Act shall take effect on July 1, 2009; provided that section 2 of this Act shall take effect on July 1, 2011, and shall be repealed on December 31, 2014; provided further that section 16 of this Act shall take effect on July 1, 2009, and shall be repealed on the effective date of administrative rules adopted by the department of land and natural resources that address the establishment of transaction fees for each recording in the bureau of conveyances and in the office of the assistant registrar of the land court; provided further that section 17 of this Act shall take effect on January 1, 2012; and provided further that section 18 of this Act shall take effect upon its approval and shall be repealed on January 31, 2010.

(Approved June 15, 2009.)

Note

1. Edited pursuant to HRS §23G-16.5.