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# A BILL FOR AN ACT

RELATING TO FEE TIME SHARE INTERESTS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The joint legislative investigative committee  
2 established pursuant to Senate Concurrent Resolution No. 226,  
3 adopted during the regular session of 2007, identified serious  
4 shortcomings relating to the bureau of conveyances. Act 120,  
5 Session Laws of Hawaii 2009, was adopted in response to the  
6 findings of the committee. Act 120 was intended to ease the  
7 backlog in land court recording and registration by, among other  
8 things, transferring fee simple time share interests from the  
9 land court system to the regular system.

10           Act 120 requires that, upon presentation of a deed or any  
11 other instrument affecting a fee time share interest, the  
12 assistant registrar of the land court shall not file the same in  
13 the land court. Rather, the assistant registrar shall:

14           (1) Update the certificate of title for all fee time share  
15 interests in the time share plan;

16           (2) Record in the regular system the updated certificate  
17 of title for each fee time share interest in the time  
18 share plan;



- 1           (3) Record in the regular system the deed or other  
2           instrument presented for recording; and  
3           (4) Cancel the certificate of title for each fee time  
4           share interest in the time share plan.

5           Once the certification of title for a fee time share  
6 interest is recorded, that time share interest is no longer  
7 subject to the land court pursuant to chapter 501, Hawaii  
8 Revised Statutes. From then on, all deeds and other instruments  
9 affecting the fee time share interest shall be recorded in the  
10 regular system. This process is known as deregistration of fee  
11 time share interests.

12           The legislature finds that the task of updating and  
13 recording the certificates of title for all fee time share  
14 interests concurrently has exceeded the capacity of the land  
15 court, particularly in light of the approximately three year  
16 backlog of land court recordings and registration existing at  
17 the time that Act 120 took effect.

18           Accordingly, the purpose of this Act is to ease the backlog  
19 in land court recording and registration by:

- 20           (1) Requiring all fee time share interests to be recorded  
21           in the regular system rather than the land court, as  
22           of the effective date of this Act; and



1 (2) Streamlining the procedure for deregistering all  
2 remaining fee time share interests.

3 SECTION 2. Section 501-20, Hawaii Revised Statutes, is  
4 amended as follows:

5 1. By adding a new definition to be appropriately inserted  
6 and to read:

7 "Date and time of deregistration" means:

8 (1) The date and time that a certificate of title for  
9 land, other than a fee time share interest, is  
10 recorded pursuant to section 501-261;

11 (2) The date and time, if prior to July 1, 2012, when a  
12 certificate of title for a fee time share interest was  
13 recorded in the bureau of conveyances pursuant to  
14 chapter 502 and part II of this chapter, whether such  
15 certificate of title was or is certified by the  
16 assistant registrar prior to, subsequent to, or on  
17 July 1, 2012;

18 (3) July 1, 2012 at 12:01 a.m. for all other fee time  
19 share interests then in existence and for which a  
20 certificate of title was not recorded in the bureau of  
21 conveyances pursuant to chapter 502 and part II of  
22 this chapter prior to July 1, 2012; and



1        (4) For all fee time share interests not yet in existence  
 2        as of July 1, 2012 at 12:01 a.m., the date and time of  
 3        recordation of the declaration, declaration of  
 4        annexation, or other document or instrument  
 5        establishing such fee time share interest."

6        2. By amending the definitions of "deregistered land" and  
 7 "fee time share interest" to read:

8        "Deregistered land" means [~~land that is the subject of a~~  
 9 ~~certificate of title recorded pursuant to section 501-261.];~~

10       (1) Land, other than a fee time share interest, that is  
 11       the subject of a certificate of title recorded  
 12       pursuant to section 501-261;

13       (2) A fee time share interest that is the subject of a  
 14       certificate of title recorded in the bureau of  
 15       conveyances pursuant to chapter 502 and part II of  
 16       this chapter prior to July 1, 2012, whether the  
 17       certificate of title is certified by the assistant  
 18       registrar on, before, or after July 1, 2012; and

19       (3) All other fee time share interests.

20       "Fee time share interest" means a time share interest,  
 21 other than a leasehold time share interest, that [~~consists~~], at  
 22 any time on or after July 1, 2011, consists or consisted of, or



1 includes [~~a present,~~] or included an undivided interest in  
2 registered land, including but not limited to an undivided  
3 interest in one or more fee simple condominium apartments or  
4 units established in whole or in part on registered land."

5 SECTION 3. Section 501-71, Hawaii Revised Statutes, is  
6 amended by amending subsection (e) to read as follows:

7 "(e) Deregistration pursuant to sections 501-261 to  
8 501-269 shall not alter or revoke the conclusive nature or  
9 effect of a decree of registration, which shall continue to  
10 quiet the title to the deregistered land as to all claims  
11 arising prior to the [~~recording of the certificate of title~~  
12 ~~pursuant to section 501-261,~~] date and time of deregistration of  
13 the land, except claims as would not otherwise be barred under  
14 this chapter if the lands were not registered."

15 SECTION 4. Section 501-261, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**[+]§501-261[+]** **Deregistration of fee interests.** (a) The  
18 registered owner of the fee interest in registered land may  
19 submit a written request to the assistant registrar to  
20 deregister the land under this chapter.

21 (1) Any written request for deregistration shall include  
22 proof of title insurance in the amount of the value of



1           the land to be deregistered and a written waiver of  
2           all claims against the State relating to the title to  
3           the land arising after the date of deregistration.

4           (2) Upon presentation to the assistant registrar [~~for~~  
5           ~~filing or recording of any instrument, document, or~~  
6           ~~paper conveying or encumbering a fee time share~~  
7           ~~interest or any interest therein, or upon the] of a  
8           written request [under subsection (d) of the] for  
9           deregistration by the registered owner of the fee  
10           interest in registered land, the assistant registrar  
11           shall not register the same, but shall:~~

12           ~~[(1)]~~ (A) Record in the bureau of conveyances, pursuant to  
13           chapter 502, the current certificate of title for  
14           the fee interest in the registered land [~~or the~~  
15           ~~registered land in which the fee time share~~  
16           ~~interest includes an undivided interest]~~;  
17           provided that[+]

18           ~~(A)~~ Prior] prior thereto, the assistant registrar  
19           shall note on the certificate of title all  
20           documents and instruments that have been accepted  
21           for registration and that have not yet been noted



1 on the certificate of title[~~;~~ and] for the  
2 registered land;

3 [~~(B)~~] ~~If separate certificates of title have been~~  
4 ~~issued for individual fee time share interests in~~  
5 ~~the time share plan, the assistant registrar~~  
6 ~~shall record in the bureau of conveyances,~~  
7 ~~pursuant to chapter 502, the certificate of title~~  
8 ~~for each fee time share interest in the time~~  
9 ~~share plan;~~

10 ~~(2)~~] (B) Record in the bureau of conveyances, pursuant to  
11 chapter 502, the [~~instrument, document, paper,~~  
12 ~~or~~] written request for deregistration presented  
13 to the assistant registrar for filing or  
14 recording. The [~~instrument, document, paper, or~~]  
15 request shall be recorded immediately after the  
16 certificate or certificates of title; and

17 [~~(3)~~] (C) Cancel the certificate of title.

18 [~~(b)~~] (3) The registrar or assistant registrar shall note  
19 the recordation and cancellation of the certificate of  
20 title in the registration book and in the records of  
21 the application for registration of the land that is  
22 the subject of the certificate of title. The notation

1 shall state the bureau of conveyances document number  
2 for the certificate of title so recorded, the  
3 certificate of title number, and the land court  
4 application number, map number, and lot number for the  
5 land that is the subject of the certificate of title  
6 so recorded[-]; and

7 [(e)] (4) No order of court shall be required prior to or  
8 in connection with the performance of any of the  
9 foregoing actions.

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

17 (b) The certificate of title for each fee time share  
18 interest shall be cancelled effective as of the date and time of  
19 deregistration of such fee time share interest. Notwithstanding  
20 the provisions of section 501-261 in existence prior to July 1,  
21 2012, a fee time share interest for which a certificate of title  
22 was not recorded in the bureau of conveyances pursuant to





1 chapter 502 and part II of this chapter prior to July 1, 2012,  
2 shall be deregistered on July 1, 2012, at 12:01 a.m.

3 (1) Beginning on July 1, 2012, and continuing for so long  
4 as shall be reasonably necessary in the ordinary  
5 course of business, the assistant registrar shall:

6 (A) Note on the certificate of title for each fee  
7 time share interest all documents and instruments  
8 affecting the fee time interest:

9 (i) That were or are registered prior to the  
10 date and time of deregistration of the fee  
11 time share interest; and

12 (ii) That were not yet registered and noted on  
13 the certificate of title of the fee time  
14 share interest as of the date and time of  
15 deregistration thereof; and

16 (B) Certify each certificate of title.

17 (2) Section 501-196 shall apply to a certificate of title  
18 updated pursuant to paragraph (1) upon approval of the  
19 same by the assistant registrar, which approval shall  
20 be evidenced by a certification of the assistant  
21 registrar endorsed upon the certificate of title. A  
22 certificate of title for a fee time share interest,



1 including but not limited to a certificate of title  
2 recorded prior to July 1, 2012, pursuant to part II of  
3 this chapter 501, shall not be considered completed or  
4 approved, and shall be subject to modification by the  
5 assistant registrar, at any time prior to  
6 certification thereof by the assistant registrar.  
7 Subsequent to the certification, the certificate of  
8 title for a fee time share interest may only be  
9 modified pursuant to section 501-196 or as otherwise  
10 provided in this chapter.

11 (3) Upon certification of the certificate of title for a  
12 fee time share interest by the assistant registrar,  
13 the assistant registrar shall mark the certificate of  
14 title "cancelled", note the cancellation of the  
15 certificate of title in the registration book, and  
16 notify the court of the cancellation. Regardless of  
17 the date upon which such administrative acts are  
18 performed, the cancellation of the certificate of  
19 title for a fee time share interest shall be effective  
20 as of the date and time of deregistration of that fee  
21 time share interest.



1        (4) If only part of the land described in the certificate  
 2        of title consists of a fee time share interest, then  
 3        upon the petition of the registered owner of that  
 4        portion of the registered land not constituting a fee  
 5        time share interest, a new certificate of title shall  
 6        be issued to such owner for that portion of the  
 7        registered land not constituting a fee time share  
 8        interest. If registered land is held in the  
 9        condominium form of ownership, then for purposes of  
 10       this subsection each unit for which a separate  
 11       certificate of title has been issued shall be treated  
 12       as if it were a separate parcel of registered land.

13       (5) Except as provided in paragraph (4), no order of court  
 14       shall be required prior to or in connection with the  
 15       performance of any of the foregoing actions."

16       SECTION 5. Section 501-262, Hawaii Revised Statutes, is  
 17 amended to read as follows:

18       "~~[+]§501-262[+]~~ **Effect of deregistration.** (a) ~~[Upon the~~  
 19 ~~recordation in the bureau of conveyances of a certificate of~~  
 20 ~~title pursuant to section 501-261:]~~ From and after the date and  
 21 time of deregistration of registered land:



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

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

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

11 (b) [~~Recordation of a certificate of title~~] Neither  
12 voluntary deregistration of land other than a fee time share  
13 interest pursuant to section 501-261 nor the mandatory  
14 deregistration of any fee time share interest pursuant to part  
15 II of this chapter, whether by recordation of a certificate of  
16 title in the bureau of conveyances prior to July 1, 2012, or by  
17 operation of law thereafter, shall [~~not~~] disturb the effect of  
18 any proceedings in the land court where the question of title  
19 has been determined. All proceedings had in connection with the  
20 registration of title that relate to the settlement or  
21 determination of title before [~~that recording,~~] a certificate of  
22 title for land other than a fee time share interest is recorded



1 pursuant to section 501-261 or a certificate of title for a fee  
2 time share interest is certified and all provisions of this  
3 chapter that relate to the status of the title, shall have  
4 continuing force and effect with respect to the period of time  
5 that title remained under the land court system. Those  
6 provisions giving rise to a right of action for compensation  
7 from the State, including any limits on and conditions to the  
8 recovery of compensation and the State's rights of subrogation  
9 with respect thereto, shall also continue in force and effect  
10 with respect to the period of time that title remained under the  
11 land court system."

12 SECTION 6. Section 501-264, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) A certificate of title for land other than a fee time  
15 share interest recorded pursuant to section 501-261 or certified  
16 by the assistant registrar shall constitute a new chain of  
17 record title in the registered owner of any estate or interest  
18 as shown on the certificate of title so recorded[?] or  
19 certified, subject only to the following:

20 (1) The estates, mortgages, liens, charges, instruments,  
21 documents, and papers noted on the certificate of  
22 title so recorded[?] or certified;



- 1           (2) Liens, claims, or rights arising or existing under the  
2           laws or Constitution of the United States, which the  
3           statutes of this State cannot require to appear of  
4           record in the registry; provided that notices of liens  
5           for internal revenue taxes payable to the United  
6           States, and certificates affecting the liens, shall be  
7           deemed to fall within this paragraph only if the same  
8           are recorded in the bureau of conveyances as provided  
9           by chapter 505;
- 10          (3) Unpaid real property taxes assessed against the land  
11          and improvements covered by the certificate of title  
12          as recorded, with interest, penalties, and other  
13          additions to the tax, which, unless a notice is filed  
14          and registered as provided by county real property tax  
15          ordinance, shall be for the period of three years from  
16          and after the date on which the lien attached, and if  
17          proceedings for the enforcement or foreclosure of the  
18          tax lien are brought within the period, until the  
19          termination of the proceedings or the completion of  
20          the tax sale;
- 21          (4) State tax liens, if the same are recorded in the  
22          bureau of conveyances as provided by section 231-33;



1 (5) Any public highway, or any private way laid out under  
2 the provisions of law, when the certificate of title  
3 does not state that the boundary of the way has been  
4 determined;

5 (6) Any lease, coupled with occupancy, for a term not  
6 exceeding one year; provided that the priority of the  
7 unrecorded lease shall attach only at the date of the  
8 commencement of the unrecorded lease and expire one  
9 year from the date or sooner if so expressed;

10 (7) Any liability to assessments for betterments, or  
11 statutory liability that may attach to land as a lien  
12 prior to or independent of, the recording or  
13 registering of any paper of the possibility of a lien  
14 for labor or material furnished in the improvement of  
15 the land; provided that the priority of any liability  
16 and the lien therefor (other than for labor and  
17 material furnished in the improvement of the land,  
18 which shall be governed by section 507-43) shall cease  
19 and terminate three years after the liability first  
20 accrues unless notice thereof, signed by the officer  
21 charged with collection of the assessments or  
22 liability, setting forth the amount claimed, the date

1 of accrual, and the land affected, is recorded in the  
2 bureau of conveyances pursuant to chapter 502 within  
3 the three-year period; and provided further that if  
4 there are easements or other rights, appurtenant to a  
5 parcel of deregistered land, which for any reason have  
6 failed to be deregistered, the easements or rights  
7 shall remain so appurtenant notwithstanding the  
8 failure, and shall be held to pass with the  
9 deregistered land until cut off or extinguished in any  
10 lawful manner;

11 (8) The possibility of reversal or vacation of the decree  
12 of registration upon appeal;

13 (9) Any encumbrance not required to be registered as  
14 provided in sections 501-241 to 501-248 and relating  
15 to a leasehold time share interest or leasehold  
16 interest in deregistered land; and

17 (10) Child support liens that are created pursuant to order  
18 or judgment filed through judicial or administrative  
19 proceeding in this State or in any other state, the  
20 recording of which shall be as provided by chapter  
21 576D."





1 SECTION 7. Section 502-33, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§502-33 Identification of reference to registration of  
4 original. [The] (a) If the owner of a fee time share interest  
5 acquired title thereto pursuant to a deed or other instrument  
6 filed or recorded in the land court pursuant to chapter 501,  
7 then the registrar need not accept for recording any deed,  
8 mortgage, or other voluntary instrument purporting to convey or  
9 affect title to such fee time share interest unless the deed,  
10 mortgage, or other voluntary instrument contains a reference to  
11 the certificate of title number by which the owner of the fee  
12 time share interest acquired title thereto. The term "fee time  
13 share interest" as used in this subsection shall have the same  
14 meaning as in section 501-20.

15 (b) Except as otherwise provided in subsection (a), the  
16 registrar shall not record any instrument requiring a reference  
17 to a prior recorded instrument, unless the same contains a  
18 reference to the book and page or document number of the  
19 registration of the original recorded instrument or a statement  
20 that the original instrument is unrecorded, as the case may be.  
21 Except as otherwise provided, every judgment shall contain or  
22 have endorsed on it the State of Hawaii general excise taxpayer



1 identification number, the federal employer identification  
2 number, or the last four digits only of the social security  
3 number for persons, corporations, partnerships, or other  
4 entities against whom the judgment is rendered. If the judgment  
5 debtor has no social security number, State of Hawaii general  
6 excise taxpayer identification number, or federal employer  
7 identification number, or if that information is not in the  
8 possession of the party seeking registration of the judgment,  
9 the judgment shall be accompanied by a certificate that provides  
10 that the information does not exist or is not in the possession  
11 of the party seeking registration of the judgment. Failure to  
12 disclose or disclosure of an incorrect social security number,  
13 State of Hawaii general excise taxpayer identification number,  
14 or federal employer identification number shall not in any way  
15 adversely affect or impair the lien created upon registration of  
16 the judgment. No amendment, continuation statement, termination  
17 statement, statement of assignment, or statement of release  
18 relating to security interests in goods which are or are to  
19 become fixtures shall be filed unless it complies with the  
20 requirements of part 5 of Article 9 of the Uniform Commercial  
21 Code. This section does not apply to any document mentioned  
22 herein executed prior to April 13, 1915.



1           The party seeking registration of a judgment shall redact  
2 the first five digits of any social security number by blocking  
3 the numbers out on the copy of the judgment to be filed or  
4 recorded."

5           SECTION 8. Section 657-33.5, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "~~+~~**\$657-33.5**~~+~~ **Deregistered land.** In no event shall the  
8 period of limitations provided in this part begin prior to the  
9 ~~[recordation of the certificate of title]~~ date and time of  
10 deregistration for deregistered land. The terms "date and time  
11 of deregistration" and "deregistered land" as used in this  
12 section shall have the same meaning as in section 501-20."

13           SECTION 9. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 10. This Act shall take effect on July 1, 2030.



**Report Title:**

Fee Time Share Interests; Land Court; Bureau of Conveyances;  
Deregistration

**Description:**

Requires all fee time share interests to be recorded in the regular system rather than the land court. Streamlines the procedure for the office of the assistant registrar to update the certificates of title for all remaining fee time share interests as part of the deregistration process. Effective July 1, 2030. (SB2632 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

