



GOV. MSG. NO. 1168

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 24, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

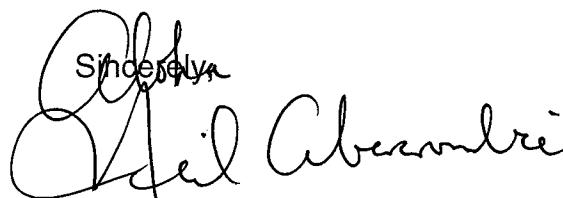
Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on April 24, 2012, the following bill was signed into law:

SB2224 SD1 HD1

RELATING TO THE TAX LIEN AND
ENCUMBRANCE RECORD.

Act 067 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor

on APR 24 2012

ACT 067

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.B. NO. 2224
S.D. 1
H.D. 1

A BILL FOR AN ACT

RELATING TO THE TAX LIEN AND ENCUMBRANCE RECORD.

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

1 SECTION 1. The legislature finds that there is a need to
2 expand the ability of state and county agencies to pursue
3 reimbursement of outstanding debts because many debtors ignore
4 payment obligations and recovery efforts by state and county
5 agencies. The legislature also finds that encumbrances on real
6 property and motor vehicles are an effective mechanism to
7 increase the likelihood of recovering outstanding debts.

8 Currently, agencies may record liens or claims with the
9 director of finance of each county, but are required to pay a
10 statutory fee that is deposited into the general fund. The
11 legislature finds that the fee is hindering some agencies from
12 utilizing the tax lien and encumbrance record to assist in
13 recovery of outstanding debts owed to the agency.

14 The purpose of this Act is to:

15 (1) Clarify that judgments are also valid claims for
16 purposes of encumbrances recorded in the tax lien and
17 encumbrance record;



1 (2) Allow a taxpayer to enter into a payment agreement
2 with the department of taxation to avoid a lien and
3 encumbrance recordation; and

4 (3) Clarify that state and county agencies are not
5 required to pay a fee for the recording of an entry in
6 the tax lien and encumbrance record, under certain
7 conditions.

8 SECTION 2. Section 286-46, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§286-46 Tax lien and encumbrance record. (a) The
11 director of finance shall keep a book or record to be known as
12 the "tax lien and encumbrance record" in which the following
13 information shall be entered:

14 (1) Notices of liens for internal revenue taxes payable to
15 the United States and certificates of release thereof;

16 (2) Notices of liens [~~or~~], taxes, or judgments payable to
17 the State or county and certificates of release
18 thereof;

19 (3) Notices of seizure in accordance with law of any
20 registered motor vehicle upon any writ of attachment,
21 execution, or other process issued under authority of
22 law;



1 (4) Notices of restraining order or other order affecting
2 the registration of any registered motor vehicle;
3 (5) Notice of any proceeding or action affecting the title
4 of a registered motor vehicle or the interest of the
5 owner or legal owner thereof; and

6 (6) Notice of release of any of the foregoing.

7 (b) With the exception of delinquent taxes and penalties
8 imposed by section 249-10, the record shall show the year,
9 month, day, hour, and minute at which the notice has been filed
10 with the director of finance, shall show the nature and kind of
11 lien or encumbrance claimed, the amount of tax or other claim,
12 with interest, penalties, and costs, and shall identify the
13 registered motor vehicles affected by the lien or encumbrance,
14 and shall contain such further information as the director of
15 finance may require. The record shall be a public record and
16 may be arranged in such manner as the director of finance
17 determines.

18 The interest of the owner or the legal owner in the motor
19 vehicle shall not be deemed to be affected until the notice
20 referred to in subsection (a)(1) to (5) has been filed with the
21 director of finance in such form as the director of finance
22 shall prescribe for entry in the tax lien and encumbrance



1 record; provided the director of finance may require the payment
2 of delinquent taxes and penalties as a condition precedent to
3 the vehicle's renewal, registration, or transfer of
4 ownership[-]; provided further that a taxpayer may enter into a
5 payment plan with the director of taxation in lieu of paying a
6 tax delinquency in full, in which case an entry in the tax lien
7 and encumbrance record shall be avoided. The director of
8 finance shall charge a fee of \$5 for each entry made in the tax
9 lien and encumbrance record, which shall be deposited in the
10 general fund[-]; provided that state and county agencies shall
11 not be charged a fee for any entry made in the tax lien and
12 encumbrance record if the state or county agency provides to the
13 director of finance the license plate number or vehicle
14 identification number of the vehicle to be flagged.

15 Nothing in this section shall be deemed to alter or amend
16 any statute relating to tax liens or the enforcement thereof."

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2012.

APPROVED this 24 day of APR, 2012


GOVERNOR OF THE STATE OF HAWAII