

JAN 25 2012

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 time
11 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 when 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;



- 1 (2) Removing the requirement that the land court update
- 2 the certificates of title for individual fee time
- 3 share interests as a condition to deregistration; and
- 4 (3) Allowing the bureau of conveyances to charge a fee for
- 5 each recording in the bureau of conveyances and in the
- 6 office of the assistant registrar of the land court
- 7 for services rendered by the bureau of conveyances.

8 SECTION 2. Section 501-20, Hawaii Revised Statutes, is
9 amended by amending the definitions of "deregistered land", "fee
10 time share interest", and "leasehold time share interest" to
11 read as follows:

12 "Deregistered land" means land that is the subject of a
13 certificate of title recorded pursuant to section [~~501-A.~~]
14 501-261 and the undivided interest of a fee time share interest
15 in registered land.

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

1 "Leasehold time share interest" means a time share interest
2 consisting of an undivided interest in an apartment lease[-] or
3 a time share interest consisting in whole or in part of an
4 estate for years in a condominium apartment or unit or its
5 appurtenant undivided interest in the land of a condominium
6 project established or existing under chapter 514A or 514B or at
7 common law."

8 SECTION 3. Section 501-261, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~§~~**501-261**~~§~~ **Deregistration of fee interests.** (a) The
11 registered owner of the fee interest in registered land may
12 submit a written request to the assistant registrar to
13 deregister the land under this chapter.

14 (1) Any written request for deregistration shall include
15 proof of title insurance in the amount of the value of
16 the land to be deregistered and a written waiver of
17 all claims against the State relating to the title to
18 the land arising after the date of deregistration.
19 The value of the registered land may be established by
20 appraisal, by reference to the assessed value, or by
21 any other reasonable means acceptable to the assistant
22 registrar.



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

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

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

21 [~~(B)~~ ~~If separate certificates of title have been~~
22 ~~issued for individual fee time share interests in~~



1 ~~the time share plan, the assistant registrar~~
2 ~~shall record in the bureau of conveyances,~~
3 ~~pursuant to chapter 502, the certificate of title~~
4 ~~for each fee time share interest in the time~~
5 ~~share plan,]~~

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

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

14 ~~[(b)]~~ (3) The registrar or assistant registrar shall note
15 the recordation and cancellation of the certificate of
16 title in the registration book and in the records of
17 the application for registration of the land that is
18 the subject of the certificate of title. The notation
19 shall state the bureau of conveyances document number
20 for the certificate of title so recorded, the
21 certificate of title number, and the land court
22 application number, map number, and lot number for the



1 land that is the subject of the certificate of title
2 so recorded.

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

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

14 (b) Beginning on July 1, 2012, fee time share interests
15 shall no longer constitute registered land, but shall instead
16 constitute deregistered land.

17 (1) Beginning on July 1, 2012, as soon as reasonably
18 possible in the ordinary course of business, the
19 registrar or assistant registrar shall update the
20 certificate of title for the registered land in which
21 the fee time share interest includes an undivided
22 interest.



1 (2) The provisions of section 501-196 shall apply to a
2 certificate of title updated pursuant to paragraph (1)
3 upon approval of the same by the assistant registrar,
4 which approval shall be evidenced by a certification
5 of the assistant registrar endorsed upon the
6 certificate of title. A certificate of title for a
7 fee time share interest shall not be considered
8 completed, and shall be subject to modification by the
9 assistant registrar, at any time prior to
10 certification thereof by the assistant registrar.
11 Subsequent to the certification, the certificate of
12 title may only be modified pursuant to section 501-196
13 or as otherwise provided in this chapter.

14 (3) Upon certification of the certificate of title for a
15 fee time share interest by the assistant registrar,
16 the registrar or assistant registrar shall cancel the
17 certificate of title for the fee time share interest
18 and note the cancellation of the certificate of title
19 in the registration book and in the records of the
20 application for registration of the land that is the
21 subject of the certificate of title. In the event
22 that only part of the land described in the



1 certificate of title consists of a fee time share
 2 interest, then the registrar or assistant registrar
 3 shall issue a new certificate of title to the
 4 registered owner of that portion of the registered
 5 land not constituting a fee time share interest.

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

9 SECTION 4. Section 501-262, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "~~+~~§501-262~~+~~ **Effect of deregistration.** (a) Upon the
 12 recordation in the bureau of conveyances of a certificate of
 13 title pursuant to section ~~[501-261:]~~ 501-261(a), and beginning
 14 July 1, 2012, with respect to fee time share interests:

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

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



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

4 (b) [~~Recordation of a certificate of title~~] Neither
5 voluntary deregistration of land pursuant to section [501-261]
6 501-261(a) nor mandatory deregistration of a fee time share
7 interest pursuant to section 501-261(b) shall [~~not~~] disturb the
8 effect of any proceedings in the land court where the question
9 of title has been determined. All proceedings had in connection
10 with the registration of title that relate to the settlement or
11 determination of title before [~~that recording,~~] a certificate of
12 title is recorded pursuant to section 501-261(a) or a
13 certificate of title for a fee time share interest is certified
14 pursuant to section 501-261(b), and all provisions of this
15 chapter that relate to the status of the title, shall have
16 continuing force and effect with respect to the period of time
17 that title remained under the land court system. Those
18 provisions giving rise to a right of action for compensation
19 from the State, including any limits on and conditions to the
20 recovery of compensation and the State's rights of subrogation
21 with respect thereto, shall also continue in force and effect



1 with respect to the period of time that title remained under the
2 land court system."

3 SECTION 5. Section 501-264, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) A certificate of title recorded pursuant to section
6 ~~[501-261]~~ 501-261(a) or certified by the registrar or assistant
7 registrar pursuant to section 501-261(b) shall constitute a new
8 chain of record title in the registered owner of any estate or
9 interest as shown on the certificate of title so recorded,
10 subject only to the following:

11 (1) The estates, mortgages, liens, charges, instruments,
12 documents, and papers noted on the certificate of
13 title so recorded;

14 (2) Liens, claims, or rights arising or existing under the
15 laws or Constitution of the United States, which the
16 statutes of this State cannot require to appear of
17 record in the registry; provided that notices of liens
18 for internal revenue taxes payable to the United
19 States, and certificates affecting the liens, shall be
20 deemed to fall within this paragraph only if the same
21 are recorded in the bureau of conveyances as provided
22 by chapter 505;



1 (3) Unpaid real property taxes assessed against the land
2 and improvements covered by the certificate of title
3 as recorded, with interest, penalties, and other
4 additions to the tax, which, unless a notice is filed
5 and registered as provided by county real property tax
6 ordinance, shall be for the period of three years from
7 and after the date on which the lien attached, and if
8 proceedings for the enforcement or foreclosure of the
9 tax lien are brought within the period, until the
10 termination of the proceedings or the completion of
11 the tax sale;

12 (4) State tax liens, if the same are recorded in the
13 bureau of conveyances as provided by section 231-33;

14 (5) Any public highway, or any private way laid out under
15 the provisions of law, when the certificate of title
16 does not state that the boundary of the way has been
17 determined;

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



1 (7) Any liability to assessments for betterments, or
2 statutory liability that may attach to land as a lien
3 prior to or independent of, the recording or
4 registering of any paper of the possibility of a lien
5 for labor or material furnished in the improvement of
6 the land; provided that the priority of any liability
7 and the lien therefor (other than for labor and
8 material furnished in the improvement of the land,
9 which shall be governed by section 507-43) shall cease
10 and terminate three years after the liability first
11 accrues unless notice thereof, signed by the officer
12 charged with collection of the assessments or
13 liability, setting forth the amount claimed, the date
14 of accrual, and the land affected, is recorded in the
15 bureau of conveyances pursuant to chapter 502 within
16 the three-year period; and provided further that if
17 there are easements or other rights, appurtenant to a
18 parcel of deregistered land, which for any reason have
19 failed to be deregistered, the easements or rights
20 shall remain so appurtenant notwithstanding the
21 failure, and shall be held to pass with the



- 1 deregistered land until cut off or extinguished in any
2 lawful manner;
- 3 (8) The possibility of reversal or vacation of the decree
4 of registration upon appeal;
- 5 (9) Any encumbrance not required to be registered as
6 provided in sections 501-241 to 501-248 and relating
7 to a leasehold time share interest or leasehold
8 interest in deregistered land; and
- 9 (10) Child support liens that are created pursuant to order
10 or judgment filed through judicial or administrative
11 proceeding in this State or in any other state, the
12 recording of which shall be as provided by chapter
13 576D."

14 SECTION 6. From July 1, 2012, through June 30, 2014, the
15 department of land and natural resources shall assess a
16 transaction fee of \$1 for each recording in the bureau of
17 conveyances and in the office of the assistant registrar of the
18 land court for services rendered by the bureau of conveyances
19 pursuant to part II of chapter 501 and chapter 502, Hawaii
20 Revised Statutes. The transaction fees collected shall be
21 deposited to the credit of the bureau of conveyances special
22 fund established under section 502-8, Hawaii Revised Statutes.



1 SECTION 7. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 8. This Act shall take effect on July 1, 2012.

4

INTRODUCED BY: Rossly D. Bell

Transmittal 2632
Jim



S.B. NO. 2632

Report Title:

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

Description:

Permits all fee time share interests to be recorded in the regular system rather than the land court. Removes requirement that land court update certificates of title for individual fee time share interests as a condition to deregistration. Allows bureau of conveyances to charge a fee 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 for two years.

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

