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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 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) Streamlining the procedure for the office of the  
2 assistant registrar to update the certificates of  
3 title for all remaining fee time share interests as  
4 part of the deregistration process; and
- 5 (3) Allowing the bureau of conveyances to charge a  
6 transaction fee for each deed of a time share interest  
7 recorded in the bureau of conveyances pursuant to  
8 chapter 502, Hawaii Revised Statutes. This is  
9 intended to offset any decline in recording fee  
10 revenue that may result from the changes in recording  
11 procedures established by this Act.

12 SECTION 2. Section 501-20, Hawaii Revised Statutes, is  
13 amended by amending the definitions of "deregistered land" and  
14 "fee time share interest" to read as follows:

15 "Deregistered land" means [~~land that is the subject of a~~  
16 ~~certificate of title recorded pursuant to section 501-261.~~]:

- 17 (1) Land, other than a fee time share interest, that is  
18 the subject of a certificate of title recorded  
19 pursuant to section 501-261;
- 20 (2) A fee time share interest that is the subject of a  
21 certificate of title recorded in the bureau of  
22 conveyances pursuant to chapter 502 and part II of



1           this chapter prior to July 1, 2012, whether such  
2           certificate of title is certified by the assistant  
3           registrar on, before, or after July 1, 2012; and

4           (3) All other fee time share interests.

5           "Fee time share interest" means a time share interest,  
6           other than a leasehold time share interest, that [~~consists~~], at  
7           any time on or after July 1, 2011, consisted of or [includes a  
8           ~~present,~~] included an undivided interest in registered land,  
9           including but not limited to an undivided interest in one or  
10          more fee simple condominium apartments or units established in  
11          whole or in part on registered land. For purposes of this  
12          chapter, a time share interest consisting in whole or in part of  
13          an undivided interest in an estate for years in registered land  
14          shall be treated as if it is a leasehold time share interest,  
15          not a fee time share interest, unless such time share interest  
16          also consists in whole or in part of an undivided fee interest  
17          in registered land other than the estate for years, regardless  
18          of whether such estate for years or interest therein is or has  
19          been conveyed by means of a deed."

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



1           "(e) Deregistration pursuant to sections 501-261 to  
 2 501-269 shall not alter or revoke the conclusive nature or  
 3 effect of a decree of registration, which shall continue to  
 4 quiet the title to the deregistered land as to all claims  
 5 arising prior to [~~the recording of the certificate of title~~  
 6 ~~pursuant to section 501-261,~~]:

7           (1) The recording of a certificate of title pursuant to  
 8           section 501-261 with respect to land, other than a fee  
 9           time share interest;

10          (2) The recording of a certificate of title for a fee time  
 11          share interest pursuant to part II of this chapter  
 12          prior to July 1, 2012, whether such certificate of  
 13          title is certified by the assistant registrar prior  
 14          to, subsequent to, or on July 1, 2012; and

15          (3) July 1, 2012, with respect to all other fee time share  
 16          interests;

17 except as to paragraphs (1), (2), and (3), claims as would not  
 18 otherwise be barred under this chapter if the lands were not  
 19 registered."

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

1           "~~+~~§501-261~~+~~ **Deregistration of fee interests.** (a) The  
2 registered owner of the fee interest in registered land may  
3 submit a written request to the assistant registrar to  
4 deregister the land under this chapter.

5           (1) Any written request for deregistration shall include  
6 proof of title insurance in the amount of the value of  
7 the land to be deregistered and a written waiver of  
8 all claims against the State relating to the title to  
9 the land arising after the date of deregistration.

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

18          ~~+~~(A) Record in the bureau of conveyances, pursuant to  
19 chapter 502, the current certificate of title for  
20 the fee interest in the registered land [~~or the~~  
21 ~~registered land in which the fee time share~~



1 ~~interest includes an undivided interest];~~  
2 provided that[+  
3 ~~(A)~~ ~~Prior~~] prior thereto, the assistant registrar  
4 shall note on the certificate of title all  
5 documents and instruments that have been accepted  
6 for registration and that have not yet been noted  
7 on the certificate of title[~~, and~~] for the  
8 registered land;  
9 [~~(B)~~ ~~If separate certificates of title have been~~  
10 ~~issued for individual fee time share interests in~~  
11 ~~the time share plan, the assistant registrar~~  
12 ~~shall record in the bureau of conveyances,~~  
13 ~~pursuant to chapter 502, the certificate of title~~  
14 ~~for each fee time share interest in the time~~  
15 ~~share plan;~~  
16 ~~(2)~~] (B) Record in the bureau of conveyances, pursuant to  
17 chapter 502, the [~~instrument, document, paper,~~  
18 ~~or~~] written request for deregistration presented  
19 to the assistant registrar for filing or  
20 recording. The [~~instrument, document, paper, or~~]  
21 request shall be recorded immediately after the  
22 certificate or certificates of title; and



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

2       ~~[(b)]~~ (3) The registrar or assistant registrar shall note  
3       the recordation and cancellation of the certificate of  
4       title in the registration book and in the records of  
5       the application for registration of the land that is  
6       the subject of the certificate of title. The notation  
7       shall state the bureau of conveyances document number  
8       for the certificate of title so recorded, the  
9       certificate of title number, and the land court  
10      application number, map number, and lot number for the  
11      land that is the subject of the certificate of title  
12      so recorded.

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

16      ~~[(d)] The registered owner of the fee interest in~~  
17      ~~registered land may submit a written request to the assistant~~  
18      ~~registrar to deregister the land under this chapter. Any~~  
19      ~~written request for deregistration shall include proof of title~~  
20      ~~insurance in the amount of the value of the land to be~~  
21      ~~deregistered and a written waiver of all claims against the~~





1 ~~State relating to the title to the land arising after the date~~  
2 ~~of deregistration.]~~

3 (b) Fee time share interests shall no longer constitute  
4 registered land and title to fee time share interests shall no  
5 longer be registered pursuant to this chapter as of the earlier  
6 of: the date when a certificate of title for a fee time share  
7 interest was recorded in the bureau of conveyances pursuant to  
8 chapter 502 and part II of this chapter prior to July 1, 2012,  
9 whether such certificate of title is certified by the assistant  
10 registrar prior to, subsequent to, or on July 1, 2012; or  
11 July 1, 2012.

12 (1) Beginning on July 1, 2012, and continuing for so long  
13 as shall be reasonably necessary in the ordinary  
14 course of business, the registrar or assistant  
15 registrar shall note on the certificate of title for  
16 each fee time share interest all documents and  
17 instruments that have been accepted for registration  
18 prior to July 1, 2012, and that have not yet been  
19 noted on the certificate of title.

20 (2) The provisions of section 501-196 shall apply to a  
21 certificate of title updated pursuant to paragraph (1)  
22 upon approval of the same by the assistant registrar,



1 which approval shall be evidenced by a certification  
2 of the assistant registrar endorsed upon the  
3 certificate of title. A certificate of title for a  
4 fee time share interest including but not limited to a  
5 certificate of title recorded prior to July 1, 2012,  
6 pursuant to part II of chapter 501, shall not be  
7 considered completed, and shall be subject to  
8 modification by the assistant registrar, at any time  
9 prior to certification thereof by the assistant  
10 registrar. Subsequent to the certification, the  
11 certificate of title for a fee time share interest may  
12 only be modified pursuant to section 501-196 or as  
13 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 assistant registrar shall record in the bureau of  
17 conveyances, pursuant to chapter 502 and without  
18 charge or payment of recording fees or transaction  
19 fees, the certificate of title for the fee time share  
20 interest as certified by the assistant registrar,  
21 cancel the certificate of title for the fee time share  
22 interest, and note the cancellation of the certificate



1 of title in the registration book and in the records  
2 of the land court judiciary application for  
3 registration of the land that is the subject of the  
4 certificate of title.

5 (A) Such cancellation shall be deemed to take effect  
6 as of July 1, 2012, regardless of the date upon  
7 which the administrative act cancelling the  
8 certificate of title is performed, or the date  
9 upon which such cancellation is noted in the  
10 registration book and in the records of the land  
11 court judiciary application for registration of  
12 the land that is the subject of the certificate  
13 of title.

14 (B) In the event that only part of the land described  
15 in the certificate of title consists of a fee  
16 time share interest, then the assistant registrar  
17 shall issue a new certificate of title to the  
18 registered owner of that portion of the  
19 registered land not constituting a fee time share  
20 interest.



1       (4) No order of court shall be required prior to or in  
2       connection with the performance of any of the  
3       foregoing actions."

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

6       "~~[-]~~**§501-262**~~[+]~~ **Effect of deregistration.** (a) ~~[Upon the~~  
7 ~~recordation in the bureau of conveyances of a certificate of~~  
8 ~~title pursuant to section 501-261:]~~ With respect to land other  
9 than a fee time share interest, commencing on the date and time  
10 of the recordation in the bureau of conveyances of a certificate  
11 of title pursuant to section 501-261; with respect to a fee time  
12 share interest that is the subject of a certificate of title  
13 recorded in the bureau of conveyances pursuant to part II of  
14 this chapter prior to July 1, 2012, whether such certificate of  
15 title is certified by the assistant registrar prior to,  
16 subsequent to, or on July 1, 2012, commencing on the date and  
17 time of recordation of the certificate of title; and with  
18 respect to all other fee time share interests, commencing on  
19 July 1, 2012:

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



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

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

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



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

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

12 "(a) A certificate of title for land other than a fee time  
 13 share interest recorded pursuant to section 501-261 or certified  
 14 by the assistant registrar pursuant to section 501-261(b) shall  
 15 constitute a new chain of record title in the registered owner  
 16 of any estate or interest as shown on the certificate of title  
 17 so recorded[~~7~~] or certified, subject only to the following:

18 (1) The estates, mortgages, liens, charges, instruments,  
 19 documents, and papers noted on the certificate of  
 20 title so recorded;

21 (2) Liens, claims, or rights arising or existing under the  
 22 laws or Constitution of the United States, which the



1 statutes of this State cannot require to appear of  
2 record in the registry; provided that notices of liens  
3 for internal revenue taxes payable to the United  
4 States, and certificates affecting the liens, shall be  
5 deemed to fall within this paragraph only if the same  
6 are recorded in the bureau of conveyances as provided  
7 by chapter 505;

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

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

21 (5) Any public highway, or any private way laid out under  
22 the provisions of law, when the certificate of title



1 does not state that the boundary of the way has been  
2 determined;

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

8 (7) Any liability to assessments for betterments, or  
9 statutory liability that may attach to land as a lien  
10 prior to or independent of, the recording or  
11 registering of any paper of the possibility of a lien  
12 for labor or material furnished in the improvement of  
13 the land; provided that the priority of any liability  
14 and the lien therefor (other than for labor and  
15 material furnished in the improvement of the land,  
16 which shall be governed by section 507-43) shall cease  
17 and terminate three years after the liability first  
18 accrues unless notice thereof, signed by the officer  
19 charged with collection of the assessments or  
20 liability, setting forth the amount claimed, the date  
21 of accrual, and the land affected, is recorded in the  
22 bureau of conveyances pursuant to chapter 502 within





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

9 (8) The possibility of reversal or vacation of the decree  
10 of registration upon appeal;

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

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

20 SECTION 7. Commencing on July 1, 2012, and continuing  
21 until the earlier of July 1, 2013, or the date when the  
22 department of land and natural resources next adopts rules



1 amending the fees for services by the bureau of conveyances  
2 pursuant to section 501-218 or 502-25, Hawaii Revised Statutes,  
3 the department of land and natural resources shall assess a  
4 transaction fee of \$1 for each deed of a time share interest  
5 recorded in the bureau of conveyances pursuant to chapter 502,  
6 Hawaii Revised Statutes. The transaction fees collected shall  
7 be deposited to the credit of the bureau of conveyances special  
8 fund established under section 502-8, Hawaii Revised Statutes.

9 SECTION 8. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect on July 1, 2020.



**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. Allows the bureau of conveyances to charge a transaction fee for each deed of a time share interest recorded in the bureau of conveyances pursuant to chapter 502, Hawaii Revised Statutes. Effective 07/01/2020. (SD1)

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

