
A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. The legislature finds the existing process for
2 authentication and recordation of time share real estate
3 documents signed outside of the United States can be cumbersome
4 and expensive. Act 277, Session Laws of Hawaii 2013 (Act 277),
5 established the commissioners of deeds program within the office
6 of the lieutenant governor to streamline this process. Act 277
7 authorized the governor to appoint commissioners of deeds to
8 administer oaths, take acknowledgements, and take proofs of
9 execution outside of the United States in connection with the
10 execution of conveyance documents relating to time shares. Act
11 277 also included protections for consumers wishing to purchase
12 a timeshare property in Hawaii, including written notice of
13 legal rights, bonding requirements for commissioners of deeds,
14 and liabilities and limitations on liabilities for commissioners
15 of deeds.

16 The legislature further finds that after the passage of Act
17 277, a working group was established to assist in implementing
18 the commissioners of deeds program. Representatives from the



1 office of the lieutenant governor, department of the attorney
2 general, department of commerce and consumer affairs, bureau of
3 conveyances, and members of the time share industry met on
4 multiple occasions to discuss and analyze the implementation of
5 Act 277. The working group determined that additional
6 legislation and authorization are needed to ensure effective
7 implementation of the commissioners of deeds program while also
8 protecting consumers who wish to purchase a time share property
9 in the State.

10 Accordingly, the purpose of this Act is to:

- 11 (1) Clarify the lieutenant governor's rulemaking
12 authority;
- 13 (2) Authorize the lieutenant governor to assess and
14 collect fees and administrative fines and establish a
15 revolving fund into which the fees and administrative
16 fines are to be deposited;
- 17 (3) Clarify the lieutenant governor's responsibility for
18 the commissioners of deeds program; and
- 19 (4) Increase the surety bond requirement for commissioners
20 of deeds.



1 SECTION 2. Chapter 503B, Hawaii Revised Statutes, is
2 amended by adding four new sections to be appropriately
3 designated and to read as follows:

4 **"§503B-A Rules.** The lieutenant governor may adopt rules
5 pursuant to chapter 91 as the lieutenant governor deems
6 necessary to implement this chapter, the appointment and duties
7 of commissioners of deeds, and other measures necessary to
8 prevent the fraudulent use of a document affixed with the
9 commissioner of deeds' seal. The rules shall have the force and
10 effect of law.

11 **§503B-B Fees and administrative fines.** (a) The
12 lieutenant governor shall charge and collect the following fees:

- 13 (1) Application for commissioner of deeds commission, \$10;
14 (2) Application for renewal of commissioner of deeds
15 commission, \$10;
16 (3) Application for restoration of forfeited commission,
17 \$10;
18 (4) Application for reinstatement of suspended commission,
19 \$10;
20 (5) Issuance of the original commission, \$40;
21 (6) Renewal of the commission, \$40;



- 1 (7) Restoration of forfeited commission, \$60;
- 2 (8) Reinstatement of suspended commission, \$40; and
- 3 (9) Commission name change, \$10.

4 Fees may be adjusted by adopting rules pursuant to chapter
5 91.

6 (b) The lieutenant governor may impose and collect the
7 following administrative fines for the commissioner of deeds'
8 failure to do the following:

9 (1) Maintain an official seal in accordance with section
10 503B-2(a)(1) and any rule adopted pursuant to chapter
11 91, \$20;

12 (2) Surrender the commissioner of deeds' seal and
13 certificate to the lieutenant governor within ninety
14 days of resignation, removal from office, or the
15 expiration of a term without renewal, \$200;

16 (3) Authenticate every acknowledgment or jurat with a
17 certificate that is signed and dated by a commissioner
18 and in a form prescribed by the lieutenant governor,
19 \$500;



- 1 (4) Record all of the commissioner of deeds' transactions
2 as prescribed by section 503B-4 and any rules adopted
3 pursuant to chapter 91, §200;
- 4 (5) Surrender the commissioner of deeds' record books to
5 the lieutenant governor within ninety days of the end
6 date of the commission, resignation, or removal from
7 office, §500;
- 8 (6) Notify the lieutenant governor within ten days after
9 loss or misplacement of the commissioner's seal or
10 record book, or both, §20; and
- 11 (7) In the case of a theft of the commissioner's seal or
12 record book, or both, §20; and the commissioner of
13 deeds shall:
 - 14 (A) Notify the lieutenant governor within ten days of
15 the theft;
 - 16 (B) Inform the appropriate local law enforcement
17 agency of the theft within ten days of discovery
18 of the theft or, if the theft occurs on a vessel,
19 inform the vessel's captain of the theft within
20 ten days of discovery of the theft;



1 (C) Use reasonable efforts to obtain a copy of a
2 report of the theft from the appropriate local
3 law enforcement agency or, if the theft occurs on
4 a vessel, obtain a copy of the report of the
5 theft from the vessel's captain or other officer;
6 and

7 (D) Deliver a copy of any report of the theft to the
8 lieutenant governor within ten days after receipt
9 thereof.

10 Administrative fines may be adjusted by adopting rules
11 pursuant to chapter 91. Moneys collected by the lieutenant
12 governor pursuant to this section shall be deposited into the
13 commissioner of deeds revolving fund established by section
14 503B-C, except that if that fund is terminated, the moneys shall
15 thereafter be deposited by the director of finance to the credit
16 of the general fund.

17 **§503B-C Commissioner of deeds revolving fund.** (a) There
18 is established in the state treasury the commissioner of deeds
19 revolving fund into which shall be deposited:

20 (1) All fees or administrative fines received pursuant to
21 section 503B-B;



1 (2) Appropriations made by the legislature and deposited
2 into the commissioner of deeds revolving fund; and
3 (3) Interest earned on money in the commissioner of deeds
4 revolving fund.

5 (b) The commissioner of deeds revolving fund shall be
6 administered by the office of the lieutenant governor.
7 Notwithstanding any law to the contrary, moneys in the
8 commissioner of deeds revolving fund shall be used for personnel
9 costs, the acquisition of equipment, and any operating and
10 administrative costs deemed necessary by the office of the
11 lieutenant governor to administer this chapter. The moneys in
12 the fund may also be used to train personnel as deemed necessary
13 by the lieutenant governor and for any other activity related to
14 commissioners of deeds.

15 **§503B-D Immunity.** (a) The lieutenant governor and
16 employees of the office of the lieutenant governor shall be
17 immune from liability for good faith conduct under this chapter.

18 (b) Notwithstanding any law to the contrary, nothing in
19 this chapter shall be construed to constitute a waiver of any
20 immunity of the State, and no action or failure to act under
21 this chapter shall be construed to create any liability for the



1 State or its officers or employees for the recovery of any
2 damages caused by any action or failure to act."

3 SECTION 3. Section 503B-1, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~503B-1~~§~~ **Commissioners; appointment.** The lieutenant
6 governor may appoint commissioners who shall serve for four
7 years from the date of the individual commissioner's respective
8 appointment, unless removed by the lieutenant governor."

9 SECTION 4. Section 503B-3, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "~~§~~503B-3~~§~~ **Powers; charges.** A commissioner, in any
12 foreign country; in international waters; and in any possession,
13 territory, or commonwealth of the United States, including but
14 not limited to the United States territorial seas, may
15 administer oaths and take acknowledgments and proofs of
16 execution of any deed, assignment of lease, apartment deed and
17 ground lease, condominium conveyance document, mortgage, deed of
18 trust, contract, power of attorney, or any other instrument or
19 writing to be used or recorded in the State in connection with:

- 20 (1) A time share interest;
- 21 (2) Any property subject to a time share plan; or



1 (3) The operation of a time share plan that includes any
2 property located within the State;
3 provided that the instrument or writing is executed in
4 international waters or in the United States territorial seas,
5 or outside of the fifty states and the District of Columbia.
6 Oaths, acknowledgments, and proofs of execution shall be taken
7 or made in the manner provided by the laws of the State,
8 including but not limited to sections 502-42, 502-43, 502-48,
9 502-61, 502-62, and 502-63, and shall be certified by the
10 commissioner under the commissioner's official seal. The
11 certification shall be endorsed on or attached to the instrument
12 or writing and shall have the same effect as if made or taken in
13 the State by a notary public commissioned in the State. Charges
14 made by commissioners for services rendered shall be no higher
15 than the rates authorized by any law governing similar services
16 rendered by notaries within the jurisdictions in which the
17 services are performed."

18 SECTION 5. Section 503B-8, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Each commissioner forthwith and before entering upon
21 the duties of the commissioner's office shall execute at the



1 commissioner's own expense an official surety bond or deposit
2 with the lieutenant governor a cash bond, which in either case
3 shall be in the sum of [~~\$1,000.~~] \$10,000. Each bond shall be
4 approved by the office of the lieutenant governor."

5 SECTION 6. In codifying the new sections added by section
6 2 of this Act, the revisor of statutes shall substitute
7 appropriate section numbers for the letters used in designating
8 the new sections in this Act.

9 SECTION 7. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 8. This Act shall take effect on January 7, 2059.



Report Title:

Commissioners of Deeds; Rules; Fees; Administrative Fines;
Commissioner of Deeds Revolving Fund; Office of the Lieutenant
Governor

Description:

Clarifies the lieutenant governor's rulemaking authority;
authorizes the lieutenant governor to assess and collect fees
and administrative fines; establishes a revolving fund into
which the fees and administrative fines are to be deposited;
clarifies that the lieutenant governor is responsible for the
commissioners of deeds program; and increases the surety bond
requirement from \$1,000 to \$10,000. Effective 1/7/2059. (SD1)

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

