

Feb. 15,

January 25, 2017 ~ SBRRB Meeting Checklist

Member Attendance				
	Airline Preference	From	Details	Attend
Anthony Borge, Chair	NA	Oahu	Parking Pass	Yes
Kyoko Kimura	HA (altamer)	Maui	Parking Pass	Yes
Harris Nakamoto, Vice Chair	NA	Oahu	NA	Yes
Director's ex officio Mark Richey	NA	Oahu	NA	Yes
<del>Robert Cundiff</del>	NA	Oahu	Parking Pass	<del>Yes</del>
Nancy Atmospera-Walch	NA	Oahu	NA	Yes
Garth Yamanaka	HA	B.I.	Parking Pass	NO

Pre Meeting Checklist	
Conference Room #436 (Confirm each month)	X
Poll Board Attendance - in process	✓
Draft Agenda to Chair for approval - Sent 2-6-17	✓
Prepare TAF's for Director's approval - ASAP (Linda) - Group TAF Kephony (Sent 2-6-17)	✓ Done
Copies of Rule Package for Lte. Gov's Office (2) and Scan for Posting on State Calendar + Posted	✓ ✓
Send Chair Minutes for Approval Approved ✓	✓
Post approved agenda on SBRRB website, State Calendar, & Lte. Governor's Office Done	✓ ✓ ✓
Send Agendas to those people who requested it - IMPORTANT Done	✓
Upload Meeting Documents onto Board's Website in Calendar Done	✓
Include "discussion leader" names on the agendas to Board members only.	✓
Prepare Agenda ONLY for "Chair" with Names of Attendees	✓
Mail parking permits to those Board members noted (Sent in Nov. 2016 six (6) permits)	OK

STAFF				
Dawn Apuna				Via I-pad
Dori Palcovich				

Post Meeting Checklist	

DAVID Y. IGE  
Governor

SHAN S. TSUTSUI  
Lt. Governor



SCOTT E. ENRIGHT  
Chairperson, Board of Agriculture  
PHYLLIS SHIMABUKURO-GEISER  
Deputy to the Chairperson


2017 JAN 31 PM 12:17

State of Hawaii  
DEPARTMENT OF AGRICULTURE  
1428 South King Street  
Honolulu, Hawaii 96814-2512  
Phone: (808) 973-9600 FAX: (808) 973-9613

HAWAII LABOR  
RELATIONS BOARD

January 9, 2017

To: Sesnita Moepono, Board Member  
Hawaii Labor Relations Board

From: Scott E. Enright, Chairperson  
Board of Agriculture 

Subject: Comments Regarding Proposed Amendments to Hawaii Administrative  
Rules in Title 12, Chapter 41

Thank you for the opportunity to review the proposed amendments and submit comments regarding effects the amendments would have on the State's diversified agriculture program.

The Hawaii Department of Agriculture was in strong opposition to the proposed amendments in testimony submitted in April 2009 for House Bill 952 HD1 SD1 Relating to Labor. The reason for the opposition, that existing law honors a worker's basic right to a private ballot, thereby increasing the likelihood that the worker's decision was made free from influence, abuse and intimidation, still applies today. The changes proposed, provide that if a majority of workers sign a petition, which by its open nature exposes a worker's position and therefore places the worker in a vulnerable situation subject to peer pressure, is a situation to be avoided and supports why the private ballot is in place.

Hawaii diversified agriculture workers do not use English as their first language and the card check process would not serve them well. Besides the possibility of intimidation and coercion and that the private ballot as a basic right, the Hawaii workforce for agriculture has evolved and is comprised of seasonal, woofers, transitory, part-time, and volunteer workers, many of whom may consider themselves private contractors. Additionally, diversified agriculture in Hawaii is mostly small farms not generating the baseline \$5 million in revenue and subject to more administrative work documenting their workforce, which would cost the farmers, ranchers and producers time and money. The Department continues its strong opposition to the proposed amendments.

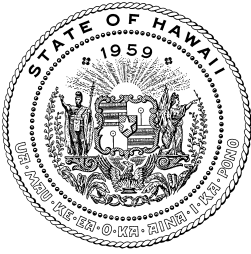


Sesnita Moepono, Board Member  
January 9, 2017  
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Due to language challenges, agricultural workers are particularly vulnerable to misleading verbal or written explanations of a petition process that they may have little or no familiarity with. A language study undertaken by the National Agriculture Statistics Service indicates that the most prevalent language among agricultural workers is Ilocano; 89% comprehend English verbal instructions and 59% comprehend English written instructions. Among these same workers, comprehension of written instructions in Ilocano, is 79.7%. Among all agricultural workers, only 87.9% can understand written instructions in their first language and only 71.3% can understand written instructions in English.

As noted above, Hawaii's farms would be subject to additional costs stemming from this bill. This is not the time to be adding additional costs onto Hawaii's agricultural producers. More agricultural lands are becoming available, as in Maui County, where 35,000 acres are transitioning from sugar to diversified agriculture and the proposed amendments would create processes that could delay production, which results in loss of revenue to the farmers, ranchers and producers. According to the 2012 Census of Agriculture and the National Agricultural Statistics Service, there are 7,000 farms in Hawaii, 81.2% of these farms are family farms. 1,977 Hawaii farms hire labor with most of these farms on the Big Island (59.3%), followed by Honolulu county (16.9%), Maui county (16.6%) and Kauai county (7.2%). Only 48.8% of all Hawaii farms have net profits with 89.3% of those with net profits reporting profits of \$49,999 or less. 51.2% of the farms in Hawaii report net losses. Over 68% of Hawaii's farmers have to work another job to stay in agriculture. Hawaii's farmers should not be expected to take on additional processes just to pay the cost of unionization without any increase in productivity.

Hawaii's farm workers are already the highest paid in the country. Among hired farm workers on all farms in Hawaii, the average wage paid in the period of October 9-15, 2016 in Hawaii was \$14.86/hr. compared to \$13.95 in California and \$13.25 nationally (excluding Alaska). Among field and livestock workers on all farms in Hawaii, the average wage paid in the same period was \$13.20, \$12.79 in California, and \$12.50 nationally (excluding Alaska). Hawaii is already at a competitive disadvantage due to the cost and availability of land and water, transportation costs, and effects of invasive species. This bill as written sets back Hawaii's efforts to become more self-sufficient in food production and in the long-run will result in the lessening of opportunities for agricultural workers. The Department of Agriculture strongly recommends that these proposed amendments are not adopted.



## SMALL BUSINESS REGULATORY REVIEW BOARD

Department of Business, Economic Development & Tourism (DBEDT)  
No. 1 Capitol District Bldg., 250 South Hotel St. 5<sup>th</sup> Fl., Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
Email: [dbedt.sbrb@hawaii.gov](mailto:dbedt.sbrb@hawaii.gov)  
Website: [dbedt.hawaii.gov/sbrb](http://dbedt.hawaii.gov/sbrb)

Tel 808 586-2594

David Y. Ige  
Governor

Luis P. Salaveria  
DBEDT Director

### Members

Anthony Borge  
Chairperson  
Oahu

Harris Nakamoto  
Vice Chairperson  
Oahu

Kyoko Y. Kimura  
2<sup>nd</sup> Vice Chairperson  
Maui

Robert Cundiff  
Oahu

Nancy Atmospera-Walch  
Oahu

Garth Yamanaka  
Hawaii

Director, DBEDT  
Voting Ex Officio

## AGENDA

Wednesday, February 15, 2017 ★ 10:00 a.m.  
No. 1 Capitol District Building  
250 South Hotel Street - Conference Room 436

### I. Call to Order

### II. Approval of January 25, 2017 Meeting Minutes

### III. Old Business

- A. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to Hawaii Administrative Rules (HAR) Title 12, Subtitle 7, **Boards**, Chapter 41, **Hawaii Labor Relations Board – Rules of Practice and Procedure**, promulgated by Hawaii Labor Relations Board / Department of Labor and Industrial Relations - *attached and incorporated as Exhibit 1*
- B. Discussion and Action on the Small Business Statement After Public Hearing and Proposed Amendments to HAR Title 13, Chapter 16, **Relating to Conveyances**, promulgated by Department of Land and Natural Resources – *attached and incorporated as Exhibit 2*

### IV. New Business

- A. Discussion and Action on **Proposed Rules of Practice and Procedure of the Kauai Historic Preservation Review Commission**, promulgated by the County of Kauai Public Access, Open Space, and Natural Resources Preservation Fund Commission, as follows – *attached and incorporated as Exhibit 3:*
1. Chapter I. **General Provisions**
  2. Chapter II. **Organization & Parliamentary Rules**
  3. Chapter III. **Public Records, Inspection and Availability**
  4. Chapter IV. **Rule Adoption, Amendment, or Repeal Procedures**

### V. Legislative Matters

- A. Discussion and Action on House Bill 1382, **Relating to Procurement** – Assists small business in the state procurement process by establishing a temporary small business assistance initiative, small business advisory council, small business office, and small business procurement coordinator position within the state procurement office, and appropriates funds.
- B. Discussion and Action on Governor's Message to be Submitted for Consideration and Confirmation to the Small Business Regulatory Review Board, Gubernatorial Nominee, **Robert Cundiff**, for a term to expire June 30, 2020.

- C. Update on House Bill 75, **Relating to the Small Business Regulatory Flexibility Act** – Extends the time given to an agency to submit a small business impact statement to the departmental advisory committee on small business and the Small Business Regulatory Review Board.
- D. Update on House Bill 587, **Relating to Small Business** - Appropriates funds to the Department of Business, Economic Development, and Tourism to provide additional resources to the Small Business Regulatory Review Board.
- E. Update on House Bill 1042, **Relating to the Small Business Regulatory Flexibility Act** – Adopts a more explicit definition of “small business,” clarifies the powers of the Small Business Regulatory Review Board, increases the number of board members from nine to eleven, and clarifies when reporting by the agencies is required for submission to the board and for submission by the board to the Legislature.
- F. Update on Senate Bill 762, **Relating to the Small Business Regulatory Review Board** – Appropriates funds to DBEDT to provide additional resources for the small business regulatory review board.
- G. Update on Senate Bill 908, **Relating to the Small Business Regulatory Flexibility Act** – Adopts a more explicit definition of “small business,” clarifies the powers of the Small Business Regulatory Review Board, increases the number of board members from nine to eleven, and clarifies when reporting by the agencies is required for submission to the board and for submission by the board to the Legislature.

#### **VI. Administrative Matters**

- A. Update on the Board’s Upcoming Advocacy Activities and Programs in accordance with the Board’s Powers under Section 201M-5, Hawaii Revised Statutes

#### **VII. Next Meeting:** Scheduled for Wednesday, March 15, 2017, at 10:00 a.m., Capitol District Building, Conference Room 436, Honolulu, Hawaii

#### **VIII. Adjournment**

If you require special assistance or auxiliary aid and/or services to participate in the public hearing process (i.e., sign language, interpreter, wheelchair accessibility, or parking designated for the disabled), please call (808) 586-2594 at least three (3) business days prior to the meeting so arrangements can be made.

# Exhibit 1

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HAWAII ADMINISTRATIVE RULES

TITLE 12

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

SUBTITLE 7

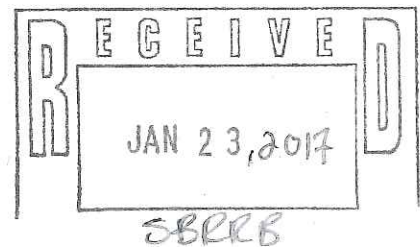
BOARDS

CHAPTER 41

HAWAII LABOR RELATIONS BOARD  
RULES OF PRACTICE AND PROCEDURE

Month Day, Year

Chapter 41, Title 12, Hawaii Administrative Rules, is amended to add new Subchapters 9 and 10.



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Chapter 41, Title 12, Hawaii Administrative Rules, is amended by adding new Subchapters 9 and 10 as follows:

## "Subchapter 9 Streamlining Union Certification

- §12-41-69 Scope of streamlining union certification
- §12-41-70 Definitions
- §12-41-71 Streamlining Union Certification
- §12-41-72 Application of streamlining union certification
- §12-41-73 Filing of petition
- §12-41-74 Notice of petition
- §12-41-75 Investigation of petition
- §12-41-76 Notice of hearing
- §12-41-77 Hearing
- §12-41-78 Eligibility and validity of authorization
- §12-41-79 Decision and Order
- §12-41-80 Certification of representative

## Subchapter 10 Facilitating Initial Collective Bargaining Agreements Subject to Chapter 377, Hawaii Revised Statutes

- §12-41-81 Request to bargain
- §12-41-82 Notice of dispute and request for conciliation
- §12-41-83 Contents of notice
- §12-41-84 Board determination of jurisdiction and the possibility of settlement and termination of dispute
- §12-41-85 Appointment of conciliator
- §12-41-86 Duties of conciliator
- §12-41-87 Confidential information
- §12-41-88 Report of conciliator
- §12-41-89 Certification of termination
- §12-41-90 Arbitration
- §12-41-91 Selection and certification of arbitration panel

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- §12-41-92 Findings and decision of arbitration panel
- §12-41-93 Payment for conciliation and arbitration
- §12-41-94 Closing of dispute in an initial collective bargaining agreement case"

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## "SUBCHAPTER 9

### STREAMLINING UNION CERTIFICATION

§12-41-69 Scope of streamlining union certification. This subchapter governs the general procedure relating to selection and certification of an exclusive representative for the purposes of collective bargaining pursuant to section 377-4.6, HRS. [Eff. ] (Auth: HRS §377-4.6) (Imp: HRS §377-4.6)

§12-41-70 Definitions. As used in this subchapter:

"Appropriate unit" means a unit that is appropriate for the purposes of collective bargaining and that is the subject of a petition filed pursuant to this subchapter.

"Exclusive representative" means an individual or labor organization certified by the board under section 377-4.6, HRS, as the exclusive collective bargaining agent to represent all employees in an appropriate unit without discrimination and without regard to employee organization membership.

"Petition", means a petition that is filed pursuant to this subchapter. [Eff. ] (Auth: HRS §377-4.6) (Imp: HRS §377-4.6)

#### §12-41-71 Streamlining Union Certification.

(a) An employee, group of employees, or any individual or labor organization acting on their behalf may collect signed valid authorization cards from employees as defined in section 377-4.6(c), HRS, designating the individual or labor organization as their exclusive representative.

(b) The authorizations shall include the following:

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- (1) The full name, address, and job title of the employee;
  - (2) The name and address of the employer;
  - (3) The identification of the individual or labor organization that is collecting authorization cards as the exclusive representative;
  - (4) An indication that the employee designates the individual or labor organization as his or her exclusive representative;
  - (5) A statement that by signing the card, the employee is acknowledging that if a majority of the employee's co-workers in an appropriate unit sign similar cards showing majority support, the card may be used by the individual or labor organization to obtain certification as the employees' exclusive representative without an election similar to that under section 377-1(11);
  - (6) An acknowledgement by the employee that the information given to the employee is in a language understandable to the employee;
  - (7) The declaration of the employee that the information contained in the authorization cards is true and correct; and
  - (8) The legible signature or mark of the employee, and if using a mark a signature of a witness, and the date of the signature or mark.
- [Eff. HRS §377-4.6] (Auth: HRS §377-4.6) (Imp: HRS §377-4.6)

§12-41-72 Application of streamlining union certification. Streamlining union certification under section 377-4.6, HRS, shall apply to an "employee" as defined under section 377-1, HRS, provided that the employee is employed by an employer with annual gross revenue of more than \$5,000,000. The annual gross revenue of an employer shall mean revenue derived by the employer from all sources, including parents, subsidiaries, and other affiliates wherever located

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based upon financial statements in the preceding fiscal year or, if the employer has operated for less than one year, based upon the actual or projected annual gross revenue reasonably projected by the board of said employer. [Eff. ] (Auth: HRS §377-4.6) (Imp: HRS §377-4.6)

§12-41-73 Filing of petition. (a) An employee, group of employees, or any individual or labor organization acting on their behalf seeking certification as the exclusive representative shall file a petition on a form furnished by the board. The original shall be signed, filed with the board, and include the following:

- (1) The full names, addresses, email addresses and affiliation, if any, of the petitioner, and the name and telephone number of its principal representative to be contacted;
- (2) The name and address of the employer, the general nature of the business, the number of employees constituting the appropriate unit, and annual gross revenue of the employer;
- (3) A full description of the appropriate unit, including the job classifications or positions of employees sought to be included and excluded and the approximate number of employees in the appropriate unit;
- (4) The name and address of any known persons or organizations that claim to represent any of the employees in the appropriate unit;
- (5) An allegation that no other individual or labor organization is currently certified or recognized as the exclusive representative of any of the employees in the appropriate unit;
- (6) An allegation that more than fifty percent of the employees within the appropriate unit have designated the petitioner as their exclusive representative;

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- (7) An allegation that the employer of the appropriate unit has an annual gross revenue of more than \$5,000,000; and
- (8) Any other relevant facts pertinent to the petition.

A petition may be withdrawn at any time prior to the final issuance of a final order of the board.  
[Eff. ] (Auth: HRS §377-4.6) (Imp: HRS §377-4.6)

§12-41-74 Notice of petition (a) Upon the filing of the petition, written notice thereof with a copy of the petition shall be sent by the Board to the employer and other interested parties. The notice shall include the date when the petition was filed, the name and address of the petitioner, the name and address of the employer involved, a description of the appropriate unit, and a statement that parties and interested persons shall have 14 days from the date of the notice to file:

- (1) Objections to the allegation that the employer has annual gross revenues of more than \$5,000,000;
  - (2) Objections to the description of the appropriate unit, including the job classifications or positions to be included or excluded from the appropriate unit and the approximate number of employees in the appropriate unit;
  - (3) Objections to the petitioner's designation of the question regarding representation that has arisen; or
  - (4) A Petition to intervene as provided in §12-41-13, in so far as it is applicable.
- (b) The employer shall post the notice where notices are normally posted affecting all employees in the appropriate unit not less than three days after receipt of the notice. [Eff ] (Auth: HRS §377-4.6) (Imp: HRS §377-4.6)

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§12-41-75 Investigation of petition. (a) Upon the filing of the petition, the board or the hearings officer shall conduct an investigation to determine whether:

- (1) Petitioner has collected valid authorization cards from more than fifty percent of the employees in an appropriate unit designating petitioner as their exclusive representative for collective bargaining purposes;
  - (2) There is agreement among the parties regarding the composition of the appropriate unit;
  - (3) The employer earns annual gross revenues of more than \$5,000,000; and
  - (4) There is no other individual or labor organization that is certified or recognized as the exclusive representative of any of the employees in the appropriate unit.
- (b) Pursuant to the investigation, the board or the hearings officer may ask the employer to submit:
- (1) Information showing the nature of the employer's business and its revenues;
  - (2) Existing or recently expired collective bargaining agreements, if any;
  - (3) An alphabetized list of all employees in the appropriate unit with their full names, addresses, and job classifications who are or were employed by the employer within the six months immediately preceding the petition's filing date;
  - (4) Copies of the W-4 forms for each employee included on the alphabetized list as required in §12-41-75(b)(3);
  - (5) An alphabetized list of all employees in the appropriate unit with their full names, addresses, and job classifications who were employed as of the petition's filing date; and
  - (6) Any other information relevant to the investigation.

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(c) Pursuant to the investigation, the board or the hearings officer shall request that the petitioner submit:

- (1) The original of each authorization card collected under §12-41-71.
  - (A) The authorization card shall be valid only if signed within six months prior to the filing of the petition in accordance with §12-41-73.
  - (B) The board or hearings officer will not accept copies of a signed authorization card.
- (2) A declaration authenticating that such authorization cards are valid and attesting to the following:
  - (A) The declarant's personal knowledge or inquiries that the declarant has made that the persons whose names appear on the authorization cards have personally signed or marked their own cards on the dates specified thereon as provided in §12-41-71;
  - (B) That the persons specified as members of the appropriate unit are or were employees of the appropriate unit during the six-month period immediately preceding the petition's filing date; and
  - (C) If the declaration is based upon inquiries the declarant has made, rather than upon personal knowledge, the declarant shall specify the nature of those inquiries.

(3) Any other information relevant to the investigation.

(d) Responses to requests made under paragraphs (b) and (c) herein shall be made within ten days of the receipt of said requests unless an extension of time is granted by the board or hearings officer for good cause shown. [Eff. ] (Auth: HRS §377-4.6) (Imp: HRS §377-4.6)

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§12-41-76. Notice of hearing. After the investigation, if it appears to the board or hearings officer that a hearing is warranted, the board or hearings officer shall issue written notice of hearing upon the parties. The initial notice shall be served by registered or certified mail with return receipt requested at least 15 days prior to the hearing and shall set the time and place of such hearing. The board or hearings officer may notice and hold a prehearing conference.

[Eff. ] (Auth: HRS §§ 91-9, 377-4.6) (Imp: HRS §377-4.6)

§12-41-77 Hearing. The procedures for hearing shall be governed by the §§12-41-20 to 12-41-30, insofar as they are applicable. [Eff. ] (Auth: HRS §§ 91-9, 377-4.6) (Imp: HRS §377-4.6)

§12-41-78 Eligibility and validity of authorization. (a) The validity of the signatures appearing on the authorization cards shall be determined administratively by the board or hearings officer. A signature appearing on an authorization card filed in compliance with section 12-41-71 herein shall be presumed valid.

(b) The board and hearings officer shall maintain the confidentiality of all signatures and identities appearing on authorization cards. The authorization cards shall not be shown or furnished to any of the parties after acceptance by the board or hearings officer and shall be destroyed when the file is closed notwithstanding §12-42-8(g)(11)(A).

(c) A board or hearings officer's finding of the eligibility of an employee to sign an authorization card or of the validity of the signature of the employee on an authorization card, or both, shall be dispositive of the issue and not subject to litigation or collateral attack, except upon sufficient evidence that the signature was obtained improperly through

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fraud or coercion. If there is a dispositive finding by the board or hearings officer that the employee is eligible to sign an authorization card and that the signature of the employee on an authorization card is valid, the authorization of the employee shall be counted toward the final determination of certification by the board or the hearings officer conducting the investigation. [Eff. ] (Auth: HRS §377-4.6) (Imp: HRS §377-4.6)

§12-41-79 Decision and Order. (a) Following the hearing, the board or hearings officer shall issue a decision and order determining whether:

- (1) The employer has annual gross revenues of more than \$5,000,000;
- (2) No other individual or labor organization is certified or recognized as the exclusive representative of any of the employees in the unit; and
- (3) A majority of the employees in the appropriate unit have signed valid authorizations designating the individual or labor organization specified in the petition as their bargaining representative.

(b) If the board or hearings officer determines that any of these requirements set forth under subsection (a) are not met, the petition shall be dismissed.

(c) If the hearing is held before the hearings officer, the decision and order rendered thereon shall be a recommended decision subject to the filing of exceptions and board review pursuant to the requirements set forth in HAR §§12-41-20 to 12-41-30, in so far as they are applicable. [Eff. ]  
(Auth: HRS §§ 91-12, 377-4.6) (Imp: HRS §377-4.6)

§12-41-80 Certification of representative. Upon a finding by the board or hearings officer that all of the requirements set forth in §12-41-79(a) for certification by authorization cards have been

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satisfied, the board shall certify the petitioner as the exclusive representative of the appropriate unit. The board shall issue a copy of the certificate to the employer and so notify the parties. [Eff. ]  
(Auth: HRS §377-4.6) (Imp: HRS §377-4.6)

### SUBCHAPTER 10

#### RULES FACILITATING INITIAL COLLECTIVE BARGAINING AGREEMENTS SUBJECT TO HAWAII REVISED STATUTES CHAPTER 377

§12-41-81 Request to bargain. An individual or labor organization that has been newly organized or certified as the exclusive representative may submit to the employer a written request to bargain. Within ten days after the employer's receipt of the request to bargain, the parties shall meet and commence bargaining collectively in good faith. The parties shall make every reasonable effort to conclude and sign a collective bargaining agreement. [Eff. ]  
(Auth: HRS §377-11) (Imp: HRS §377-4.7)

§12-41-82 Notice of dispute and request for conciliation. More than ninety days after the date on which bargaining commenced or such additional period as the parties agree upon if the parties have failed to reach an agreement, either party may notify the board of the dispute by filing a written notice of dispute and request for conciliation. The employer or exclusive bargaining representative shall file an original of the notice of dispute, with proof of service upon all parties. [Eff. ]  
(Auth: HRS §377-11) (Imp: HRS §§377-3, 377-4.7)

§12-41-83 Contents of notice. The notice of dispute shall contain the following:

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- (1) The names and addresses of the parties to the dispute, and the names, telephone numbers, and email addresses of their respective principal representatives to be contacted;
- (2) A description of the appropriate unit and the approximate number of employees constituting the unit;
- (3) The dates and duration of negotiation sessions, if any;
- (4) The name of the party or parties requesting conciliation; and
- (5) A clear and concise statement of any other relevant facts. [Eff. ] (Auth: HRS §377-11) (Imp: HRS §§377-3, 377-4.7)

§12-41-84 Board determination of jurisdiction and the possibility of settlement and termination of dispute. Upon receiving notice of a labor dispute regarding the failure to reach an initial collective bargaining agreement involving a newly organized or certified representative, the board shall determine whether: the labor dispute is within the board's jurisdiction; and the possibility of settlement and termination of the dispute may be increased by conciliation. [Eff. ] (Auth: HRS §377-11) (Imp: HRS §377-3, 377-4.7)

§12-41-85 Appointment of conciliator. If the board determines that the labor dispute is within its jurisdiction and that the possibility of settlement and termination of the dispute may be increased by conciliation, the board shall notify the governor who shall immediately appoint a conciliator. The governor shall so notify the board of the appointment of a conciliator. Upon receipt of notice of the appointment, the board shall refer the dispute to the conciliator. [Eff. ] (Auth: HRS §377-11) (Imp: HRS §§377-3, 377-4.7)

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§12-41-86 Duties of conciliator. (a) The conciliator shall perform conciliation duties under the guidance of the board and shall report any findings to the board.

(b) The conciliator's function shall be to use his or her best efforts to resolve the dispute within twenty days immediately succeeding the date upon which the request for conciliation was made, or such additional time as is agreed upon by all parties to the dispute.

(c) The conciliator may hold separate or joint meetings with the parties or their representatives, which shall be private and nonpublic in nature.

(d) Conciliation meetings shall be conducted at such time and place as may be designated by the conciliator. [Eff. \_\_\_\_\_] (Auth: HRS §377-11) (Imp: HRS §§377-3, 377-4.7)

§12-41-87 Confidential information. (a) Any information disclosed by the parties to the conciliator in the performance of such conciliator's duties shall not be divulged voluntarily or by compulsion.

(b) All files, records, reports, or other papers received or prepared by a conciliator while serving in such capacity shall be classified as confidential. The conciliator shall not produce any confidential records of or testify in regard to any conciliation conducted by such conciliator, on behalf of any party to any cause pending in any type of proceeding, unless otherwise required by law. [Eff. \_\_\_\_\_] (Auth: HRS §377-11) (Imp: HRS §§377-3, 377-4.7)

§12-41-88 Report of conciliator. (a) The conciliator shall, either orally or in writing, report the progress of conciliation efforts, as well as the terms of the termination of the dispute if any, if so requested by the board. [Eff. \_\_\_\_\_] (Auth: HRS §377-11) (Imp: HRS §§377-3, 377-4.7)

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### §12-41-89 Certification of termination. (a)

If, within twenty days immediately succeeding the date upon which the request for conciliation was made, or such additional time as is agreed upon by all parties, the conciliator succeeds or does not succeed in terminating the dispute by conciliation, the conciliator shall immediately certify such fact to the board and the conciliator's appointment shall end.

(b) Upon the termination of the appointment of the conciliator, the board shall so notify the governor. [Eff. ] (Auth: HRS §377-11)  
(Imp: HRS §§377-3, 377-4.7)

§12-41-90 Arbitration. If the conciliator fails to bring the parties to agreement within the period required by section 12-41-89, the board shall immediately notify the parties that the labor dispute shall be referred to a three-member arbitration panel established in accordance with section 89-11(e)(2)(A), Hawaii Revised Statutes, and rules as prescribed by the board. [Eff. ] (Auth: HRS §377-11)  
(Imp: HRS §§89-11, 377-4.7)

§12-41-91 Selection and certification of arbitration panel. Two members of the arbitrator panel shall be selected by the parties; one shall be selected by the employer and one shall be selected by the exclusive representative. The neutral third member of the arbitration panel, who shall chair the arbitration panel, shall be selected by mutual agreement of the parties. In the event that the parties fail to select the neutral third member of the arbitration panel within thirty days from the date of the labor dispute, the board shall, request the American Arbitration Association, or its successor in function, to furnish a list of five qualified arbitrators from which the neutral arbitrator shall be selected. Within five days after receipt of such

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list, the parties shall alternately strike names from the list until a single name is left, and that arbitrator named shall be immediately appointed by the board as the neutral arbitrator and chair of the arbitration panel, and the board shall serve a copy of its certification of appointment of such panel upon all parties. [Eff. ] (Auth: HRS §377-11)  
(Imp: HRS §§89-11, 377-4.7)

§12-41-92 Findings and decision of arbitration panel. The arbitration panel shall file with the board the original of all findings and decisions, which shall be binding upon the parties for a two-year period, unless amended during that period by written consent of the parties, with proof of service upon all parties. [Eff. ] (Auth: HRS §377-11)  
(Imp: HRS §§89-11, 377-4.7)

§12-41-93 Payment for conciliation and arbitration. All costs, including those of a neutral arbitrator or conciliator, shall be borne equally by the parties involved in the dispute. [Eff. ] (Auth: HRS §377-11) (Imp: HRS §377-4.7)

§12-41-94 Closing of dispute in an initial collective bargaining agreement case. (a) Upon written notification to the board by the employer or exclusive representative of the execution of an initial collective bargaining agreement, where a request was made to the Board for conciliation, or upon the board's own knowledge and information, the board shall issue a "Notice of Intent to Dismiss Labor Dispute Case Because of Mootness" stating that the board will dismiss such labor dispute case because of mootness, unless it receives written notification from any party to the proceeding within ten days of the issuance of such notice, setting forth reasons why the case should not be dismissed.

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(b) Ten days after issuance of such notice, if no objections to dismissal are received, the board shall issue an order dismissing such case." [Eff. ] (Auth: HRS §377-11) (Imp: HRS §377-4.7)

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This amendment to Chapter 41, Title 12, Hawaii Administrative Rules, to add new Subchapters 9 and 10 shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on \_\_\_\_\_, and filed with the Office of the Lieutenant Governor.

\_\_\_\_\_  
Chair, Hawaii Labor Relations Board

\_\_\_\_\_  
Director, Department of Labor and Industrial Relations

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Deputy Attorney General

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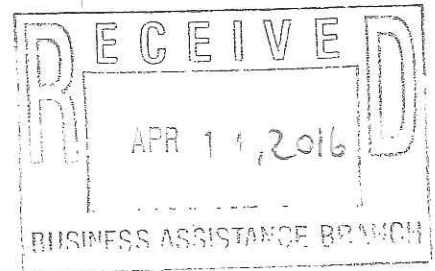


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## Exhibit 2



Attachment 2:  
 Title 13, Chapter 16 Rules Relating to Conveyances  
 SUMMARY OF CHANGES MADE  
 March 2016

Section	Present rule	Proposed rule (standard format)	Justification
13-16-1	<p><b>Purpose.</b> The purpose of these rules is to regulate the recordation of instruments in the bureau of conveyances. These rules shall apply to all persons recording instruments in the bureau of conveyances.</p>	<p><b>Purpose.</b> The purpose of these rules is to regulate the recordation and filing of instruments in the bureau of conveyances and office of the assistant registrar.</p>	<p>Added "and filing" since BOC both records items and files items (e.g. plans, UCC statements are called "filed" by HRS 490); added reference to "office of the assistant registrar" to clarify these rules apply to Land Court documents.          Removed the sentence stating the rules apply to all persons as unnecessary</p>
13-16-2	<p><b>Definitions.</b> As used in these rules unless context requires otherwise:</p> <p>"Assistant registrar" means the assistant registrar of the land court of the bureau of conveyances in the department of land and natural resources.</p> <p>"Board" means the Board of Land and Natural Resources.</p> <p>"Bureau" means the bureau of conveyances in the department of land and natural resources.</p> <p>"Grantee" means a party that acquires interest in real property.</p> <p>"HRS" means Hawaii Revised Statutes, as amended.</p>	<p><b>Definitions.</b> As used in these rules unless context requires otherwise:</p> <p>"Approved eRecording Vendor" means those vendors who have agreed to comply with the laws and rules of the state of Hawaii and warrants that any document submitted for eRecording is a true, exact, complete, and unaltered copy of the originating paper document or electronic document.</p> <p>"Assistant registrar" means the registrar of the bureau of conveyances and the registrar's deputy, authorized by section 501-9, HRS, to carry out the duties of recording and registration required under chapter 501.</p> <p>"Board" means the Board of Land</p>	<p>Amended.          Added the following definitions:          Approved eRecording Vendor Document (source: compilation of internet resources)          Electronic (source: HRS 502)          electronic document (source: HRS 502)          electronic signature (source: HRS 502)          Flysheet (source: common practice)          grantor          Office          paper document (source: HRS 502)          person (source: HRS 502)</p> <p>Modified the following definitions:          Assistant registrar: for clarification.          Instrument: added examples of instruments.          Signature: added reference to electronic signature</p>

“Instrument” means documents and maps required to be recorded or filed.

“Record,” “recorded,” “recording,” or “recording” means the act of entering instruments into the public records.

“Registrar” means the registrar of the bureau of conveyances appointed by the board of land and natural resources.

“Signature” means the name of a person as written by the individual or the affixing of a mark or fingerprint or toeprint.

and Natural Resources.

“Bureau” means the bureau of conveyances in the department of land and natural resources.

“Document” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Electronic” means relating to technology having electric, digital, magnetic, wireless, optical, electromagnetic, or similar properties.

“Electronic document” means a document that is stored in an electronic medium.

“Electronic signature” means an electronic sound, symbol, or process, attached to or logically associated with a document and executed or adopted by a person with the intent of affixing a signature on the document.

“eRecording” means electronic recording.

“Flysheet” or “cover sheet” means a page attached to the front of an instrument to conform the instrument to the formatting and content requirements provided by Chapter 501 or 502 and these rules.

"Grantee" means a party that acquires interest in real property.

"Grantor" means a party that conveys or transfers interest in real property.

"HRS" means Hawaii Revised Statutes, as amended.

"Instrument" means documents and maps presented for recordation or filing or recorded or filed with the bureau or office. Instruments include but are not limited to deeds, mortgages, assignments, modifications, reconveyances, notices of liens, judgments and decrees from courts, federal and state tax liens, satisfactions and releases of liens, agreements of sale, notices of pendency of civil actions, notices of default and intentions to foreclose, condominium property regime declarations, powers of attorney, UCC financing statements, veteran's certificates, and other items as allowed by Chapter 501 and 502.

"Office" means the office of assistant registrar located at the bureau of conveyances where the duties of recording and registration and related activities authorized by section 501-9, HRS, are carried out.

"Paper document" means a document that is inscribed on a tangible medium such as paper.

“Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

“Record,” “recorded,” “recording,” or “recording” means the act of entering instruments into the public records.

“Registrar” means the registrar of the bureau of conveyances appointed by the board of land and natural resources.

“Signature” means the name of a person as written by the individual, the affixing of a mark or fingerprint or toeprint, or electronic signature.

13-16-3 ~~Office hours; hours of recordation.~~ The bureau shall be open from 7:45 a.m. until 4:30 p.m. every day of the year, except on Saturdays, Sundays, and holidays established by law, but instruments shall only be recorded between the hours of 8:01 a.m. and 3:29 p.m. Every instrument presented for recordation shall be examined by the registrar in the order it is presented for that purpose and if the instrument is entitled by law to be recorded, it shall be recorded:  
(1) at 8:01 a.m. if the instrument was presented to the registrar before 8:01 a.m.;  
(2) As of the time it is accepted by

~~Office hours.~~ The bureau shall be open from 7:45 a.m. until 4:30 p.m. every day of the year, except on Saturdays, Sundays, and holidays established by law.

Amended.  
Deleted “hours of recordation” from title, since this topic is covered in subsection 13-16-5. Deleted language detailing when items are recorded, since overly detailed and covered in 13-16-5.

the registrar if the instrument was presented to the registrar between 8:01 a.m. and 3:29 p.m.:

(3) At 8:01 a.m. the next day the registrar's office is open if the person requesting recordation so requests:

(4) At 8:01 a.m. the next day the registrar's office is open if the instrument was presented after 3:29 p.m.: or

(5) On the date and at a time between 8:01 a.m. and 3:29 p.m. pursuant to terms contained in any written agreement with the registrar relating to prechecking and recordation of instruments

13-16-4

Recording Method. (a) The registrar shall make or cause to be made an entire literal copy of all instruments, with their original signature, recorded in the bureau, and the registrar shall certify its correspondence with the original, after which the registrar shall certify upon the exterior, or endorse upon the recorded instrument with the original signature, the date and time of its registry and a document number.

(b) All names of all natural persons signing in their individual capacity in the instrument shall be typewritten, stamped, or printed manually, or by some other mechanical or electrical printing method beneath all original signatures. No discrepancy in the name shall exist between the name, as it appears in either 1) in the body of the instrument, 2) beneath the original signature, or 3) in the notary's certificate of acknowledgement. All aliases must also be included within the three

Recording. (a) Every instrument presented for recordation shall be prepared in accordance with chapter 502, HRS.

(b) Notwithstanding any other rule to the contrary, the registrar or assistant registrar may accept an electronic signature in lieu of an original signature if the electronic signature is attached to or logically associated with the document.

(c) The registrar or assistant registrar may refuse to record any instrument that:

(1) has missing or incomplete information required by law;  
(2) is submitted without payment of all required fees;  
(3) will not reproduce legibly under photographic, electronic, or electrostatic methods;

(4) contains interlineations, erasures or changes that are not initialed in accordance with section 502-63, HRS; or

Amended.

Retitled from "Recording Method" since the section really covers recording, not methods of recording. Deleted the existing section as much of the detail is covered by statute, and instead referenced statute directly. Retained most important criteria for acceptance (e.g., accompanied by required fees, etc.).

aforementioned areas. When using generic form acknowledgment pursuant to section 502-41(6), HRS, the name of the person signing in their individual capacity must be typewritten, stamped, or printed manually, or by some other mechanical or electrical printing method beneath the original signature. The provisions of this paragraph shall not apply to any deed or other instrument executed prior to January 1, 1990.

(c) The registrar may refuse to record any instrument of a size larger than eight and one-half inches by eleven inches, or which contains a schedule, inventory, or exhibit in excess of such size. If an instrument consists of more than one page, each page shall be single-sided sheets of written text numbered consecutively, beginning with number one, or the total number of pages contained in the document must be referenced on the first page thereof, without any papers or materials secured or attached in any manner that may conceal any written text, and it shall be stapled once in the upper left corner or fastened and shall not have a cover or backer attached. The registrar shall be permitted to remove any rivets affixed to any instrument. In addition, the first page shall identify and include, if possible, all names of the grantors and all names and addresses of the grantees, the type of document, and the tax map key number. The provisions of this paragraph shall not apply to any instrument executed prior to January 1, 1990.

(d) The registrar may refuse to record all instruments, papers or notices that will not

(5) does not satisfy the requirements of subsection (a).



	reproduce legibly under photographic or electrostatic methods.		
13-16-4.5		<p><u>Electronic recording standards.</u> (a) Notwithstanding any rule to the contrary, the registrar or assistant registrar may accept an electronic document for recording in place of an original paper document.</p> <p>(b) To keep the standards and practices of eRecording in the state in harmony with the standards and practices of other jurisdictions, with the most recent standards adopted by national standard setting bodies, and with industry best practices, the registrar or assistant registrar may identify approved eRecording vendors authorized to submit electronic documents for recording.</p>	New section. Authorizes Registrar to accept electronic documents for recording and to identify approved eRecording vendors authorized to submit electronic documents for recording.
13-16-5	<p><u>Instrument recorded as of time of delivery.</u> Every instrument entitled by law to be recorded shall be recorded in the order and as of the time when the same is delivered and approved by the registrar for that purpose, and shall be considered as recorded from the time of such delivery and approval, provided that the registrar may enter into a written agreement with any person or association, which agreement authorizes an instrument to be recorded between 8:01 a.m. and 3:29 p.m. on a day subsequent to its delivery to the registrar.</p>	<p><u>Time of recordation.</u> Instruments shall be recorded between the hours of 8:00 a.m. and 3:30 p.m. inclusive. Every instrument presented for recordation, whether submitted electronically or in-person, shall be examined by the registrar or assistant registrar in the order it is presented for that purpose, and if after review, the instrument is accepted for recording, it shall be recorded as of the time of acceptance for recording or at 8:01 a.m. on the next business day if the acceptance occurs after 3:30 p.m., provided that the registrar or assistant registrar may enter into a written agreement with any person, which agreement authorizes an instrument to be recorded between 8:00 a.m. and 3:30 p.m. on a day subsequent to its delivery to the</p>	Amended. Retitled from "Instrument recorded as of time of delivery" to "Time of recordation". Improves clarity, while maintaining existing practice, and addresses e-documents.

		registrar or assistant registrar.	
13-16-6	<p><u>Reference to original book and page or document number.</u> The registrar shall not record any document unless it contains a reference to the book and page or document number of the recordation of the interest acquired. No amendment, continuation statement, termination statement, statement of assignment, or statement of release relating to security interests in goods which are or are to become fixtures shall be recorded unless it complies with the requirements of chapter 490, HRS. This rule does not apply to any document mentioned herein which refers to an unrecorded mortgage or lease, if such fact be recited therein.</p>	<p><u>Reference to original book and page or document number.</u> The registrar shall not record any document unless it contains a reference to the book and page or document number of the recordation of the interest acquired.</p>	<p>Amended. Deleted references to UCC documents as not really related to title.</p>
13-16-7	<p><u>Endorsements permitted.</u> The registrar shall not record any document unless it contains or has endorsed upon it the address of the grantee. This rule does not apply to any document executed prior to July 1, 1951.</p>	<p><u>Endorsements.</u> The registrar or assistant registrar shall not record any document unless it contains or has endorsed upon it the address of the grantee, the type of document, and total page count. Endorsements may be made on a conforming flysheet.</p>	<p>Amended. Retitled to "Endorsements" for clarity. Added reference to "assistant registrar;" added type of document and total page count to required endorsement, and specifically allows conforming flysheets.</p>
13-16-8	<p><u>Notary's acknowledgement.</u> Except as provided by sections 502-50 to 502-52, a notary's acknowledgement may be in any form or in a form provided in any of sections 502-41, 502-43, 502-45, or 502-47, HRS but shall include the following: (1) Individuals, Venue (state or country), date, name of person, statement person is known or proved identity, appeared and signed the instrument before the notary, notary's signature and expiration (if</p>	<p><u>Acknowledgments.</u> Where required by law, instruments shall be accompanied by acknowledgments prepared in accordance with applicable law.</p>	<p>Amended. Retitled to Acknowledgement and replaces details with reference to applicable law to ensure consistency with future changes to HRS Chapter 502 and notary law.</p>

applicable).

(2) Corporations or partnerships. Same as individuals in addition to the following statement: in the capacity shown, having been duly authorized to execute such instrument in such capacity.

13-16-9

Notary's initials. (a) No instrument acknowledged in the State of Hawaii which contains interlineations, erasures, or changes shall be recorded by the registrar, unless the same are duly initialed by the officer or officers taking the acknowledgement or acknowledgements to the same.

(b) No instrument acknowledged outside the state of Hawaii which contains interlineations, erasures, or changes shall be recorded by the registrar, unless the same are duly initialed by either the parties to the instrument or the officer or officers taking the acknowledgment or acknowledgments to the same.

Repealed. Restates 502-63: incorporated reference into 13-16-4(c)(6).

13-16-10

Acknowledgments not required of certain state officers. In the case of an official signature entitled to be judicially noticed pursuant to rule 901 or 902, Hawaii Rules of Evidence, Chapter 626, HRS, the official signature shall suffice to show due execution by the officer signing the instrument and the officer is not required to acknowledge the instrument in order to entitle it to be recorded.

Repealed. Restates 502-52. Covered by revised 13-16-8.

13-16-11

Acknowledgments not required of officers acting on behalf of the United States. When any instrument offered for recordation by any judicial, executive, or administrative officer

Repealed. Restates 502-51. Covered by revised 13-16-8.

of the United States, acting in the officer's official capacity, or by any duly authorized officer or agent of any agency or instrumentality of the United States created by or under federal or state law, acting in the officer's or agent's official capacity, it shall not be necessary that the instrument, where the same is required to be signed by the officer or agent, be acknowledged before a notary public by the officer or agent, and the registrar shall accept the instrument for recordation when the signature of the duly authorized officer or agent together with the official seal, if any, is attached to the instrument for recordation.

13-16-12

Acknowledgment outside the United States: by members of the armed forces. (a) Acknowledgments of deeds or other instruments in order to entitle the same to be recorded, when made outside the United States may be made by:

- (1) Any officer now authorized by the laws of the State;
- (2) Any officer of the United States diplomatic or consular officer under the officer's seal of office; and
- (3) Any person authorized by the law of any foreign country to take such acknowledgement, when such acknowledgment is accompanied by a certificate to the effect that the person taking the same is duly authorized thereto and that such acknowledgment is in the manner prescribed by the laws of the foreign country or by treaty or international agreement of the United States. The certificate may be made

Repealed. Restates 502-47. Covered by revised 13-16-8.

by a diplomatic or consular officer of the United States under the seal of his office or by a diplomatic or consular officer of the foreign country, resident in the State, under the seal of his office with the signature or facsimile of the signature of the diplomatic or consular officer of the United States.

(b) Acknowledgments may also be made by any person in the armed forces of the United States, or by any person without the United States, before any officer of the armed forces authorized by Congress to exercise the powers of a notary public. The signature without seal of any officer acting as such notary public is prima facie evidence of the officer's authority.

13-16-13

~~Judgment lien: satisfaction.~~ Any judgment or decree of a court of competent jurisdiction, whether a federal court or a court of the State of Hawaii if certified as correct by a clerk of the court where it is entered, may be recorded with the registrar. Every judgment lien must contain the defendant's social security number, State of Hawaii general excise taxpayer identification number, or if that information is not in the possession of the party seeking registration of the judgment, a statement that the information does not exist or is not in the possession of the party seeking registration of the judgment. Judgments pursuant to eminent domain proceedings will not require the social security number or general excise taxpayer identification number. The effect of such recordation as creating a lien and the duration of any such lien shall be as provided by

Repealed. Covered by 13-16-26.

	section 636-3, HRS.	
13-16-14	<u>Foreign judgment, satisfaction.</u> A certified copy of any judgment decree or order of a court of the United States or of any other court which is entitled to full faith and credit in this State, when filed in the office of the clerk of the appropriate court of this State may be recorded with the registrar. The effect of such recordation and the enforceability or satisfaction of the recorded judgment shall be as provided by chapter 636C, HRS. Every judgment lien must contain the defendant's social security number, State of Hawaii general excise taxpayer identification number or federal employer identification number or if that information is not in the possession of the party seeking registration of the judgment, a statement that the information does not exist or is not in the possession of the party seeking registration of the judgment.	Repealed. Covered by 13-16-26.
13-16-15	<u>Power of attorney, etc.</u> All articles of marriage settlement and powers of attorney for the transfer of real property within the State shall be recorded in the Bureau. The effect of the death, disability or incapacity of the principal shall be as provided by section 560:5-502 HRS and common law.	Repealed. Restates 502-84.
13-16-16	<u>Entry record.</u> The registrar shall make and keep in such form and manner as is prescribed by the board a permanent record of the receipt of every document left for record, and every plan filed, and shall note on the record, in addition to a description sufficient to identify the document, the date	Repealed. Restates 502-11.

	<p>of its receipt and such other acts as are prescribed by the board.</p>		
<p>13-16-17</p>	<p><u>File plans.</u> (a) The registrar shall accept and file in the registrar's office, upon the payment of the fee as provided in section 13-16-22, any plan of land prepared in the manner prescribed in section 502-17, HRS.</p> <p>(b) The plan shall first be referred to the state land surveyor in the department of accounting and general services who shall cause the same to be checked as to form and mathematical correctness but not on the ground. If the plan is drawn in accordance with sections 502-17, 502-18, and 502-19, HRS, the department shall endorse its approval of the plan on the face thereof, after which the plan may be filed of record.</p> <p>(c) On receipt for recordation of a transfer or separate description document concerning a lot in a subdivision, the registrar shall accept and file the document with:</p> <ol style="list-style-type: none"> <li>(1) A metes and bounds description, either solely or as part of the document; and</li> <li>(2) A certified plat map; or</li> <li>(3) A letter from a registered professional surveyor, certifying that the metes and bounds description confirms to the accompanying plat map.</li> </ol> <p>(d) Any file plan may be amended by recording an affidavit executed by the surveyor, owner, or owner's attorney-at-law. The document number of the amendment will be noted on the file plan.</p> <p>(e) The document shall otherwise comply with the requirements for recordation</p>	<p><u>File plans.</u> (a) Plans of land shall be prepared in accordance with chapter 502, HRS.</p> <p>(b) Any file plan may be amended by recording an affidavit executed by the surveyor, owner, or owner's attorney-at-law. The document number of the amendment will be noted on the file plan.</p> <p>(c) The document shall otherwise comply with the requirements for recordation under this rule.</p> <p>(d) The registrar may refuse to accept and file any plan that does not satisfy the requirements of subsection (a).</p>	<p>Amended. Modified to reduce restatement of statute, and instead reference HRS Chapter 502 directly.</p>

	under this rule. [Any parcel created or subdivided prior to the effective date of this subdivision laws of the respective counties is exempt from the provisions of this subsection.	
13-16-18	<u>Description: lot subdivisions.</u> A metes and bounds description of the exterior boundaries of a parcel or parcels of land sought to be registered as a file plan shall be prepared in accordance with section 502-18, HRS and shall be written upon the plan, or printed or typewritten on unruled good quality white paper of a size not larger than eight and one-half inches by eleven inches. The description shall be filed in duplicate with the file plan, and shall be dated and signed by the surveyor making the field survey, or under whose supervision the field survey was executed. Any printed or typewritten description filed separately with the file plan shall be recorded with the registrar and the book and page or document number thereof noted on the file plan. Recordation expenses shall be charged to the owner.	Repealed. Restates 502-18; covered by 13-16-17.
13-16-19	<u>Plans on tracing cloth: size; scale.</u> All plans must be on tracing cloth of good quality, and shall be of one of the following sizes, the figures indicating inches: 10 x 15; 15 x 21; 21 x 32; 30 x 36; 36 x 42; 48, or 54 inches wide without restrictions as to length: which plans shall be prepared and drawn according to one of the following scales: 10, 20, 30, 40, 50, 100, 200, 300, 400, 500, 1000, 2000, 3000, 4000, or 5000 feet to an inch.	Repealed. Restates 502-19, covered by 13-16-17.
13-16-	<u>Recording of plans unlawful.</u> The registrar	Repealed. Restates 502-21; covered by 13-



20	shall not record any plan of land, whether attached to, made a part of, or independent of, any instrument; to the end and purpose that there shall be no plans recorded in the record books, but in substitution therefor there shall be a single method of filing plans in the bureau; provided that where sketches, blueprints, or plans of land of a size not larger than eight and one-half inches by eleven inches which legibly reproduce under photographic or electrostatic methods are attached to instruments and made a part thereof by reference to the same in the instrument, the registrar may record the same in the record books by means of the photographic recorder, on payment of the fee as provided in section 13-16-22.		16-17.
13-16-21	<u>Copies of plans furnished by registrar.</u> The registrar shall furnish, when so requested, copies of any map or plan filed in the registrar's or assistant registrar's office duly certified by the registrar's office or assistant registrar's seal of office, upon payment of the fee provided in section 13-16-22. In addition, the registrar or assistant registrar may authorize the state land survey administrator of the department of accounting and general services to furnish, when so requested, copies of such maps or plans, subject to the payment of fees applicable to maps or plans furnished by the registrar.	<u>Copies of plans.</u> The registrar or assistant registrar may authorize the state land survey administrator of the department of accounting and general services to furnish copies of maps or plans.	Amended. Reflects existing practice that requests for copies of plans and maps are made through the Land Survey division of DAGS rather than through the Bureau.
13-16-22	<u>Fees.</u> (a) The registrar or assistant registrar is entitled to demand fees set by the board and receive payment by cash, check, bank draft, cashier's check, money order, or	<u>Fees.</u> (a) Except as provided in subsections (b) and (c), the registrar or assistant registrar may charge fees as follows: (1) For recording any instrument	Amended. Re-organized for clarity. Updated fees listed in (a). Added new subsection (c) authorizing the

Visa/Master/Discover charge. No fees shall be charged for the recordation of any instrument in which the United States, State of Hawaii, or any county of the State of Hawaii, is the grantee, lessee, mortgagee, assignee, vendee, licensee, permittee:

(1) For recording any instrument entitled by law to be recorded, including releases or partial releases of State tax liens, \$25 for the first twenty pages and \$1 for each additional page or fraction thereof and for instruments executed after June 30, 1995, not conforming to eight and one-half inches by eleven inches, an additional fee of \$20;

(2) For each additional memorandum on certificates in excess of four required by any one instrument, \$1;

(3) For entry of original certificate of title, or for making and entering a new certificate of title, \$25 if contained within one page. For each additional page or fraction thereof, \$1;

(4) For a certified copy of any certificate of title, \$2. For each additional page or fraction thereof, \$1;

(5) For taking any acknowledgment preparatory to registry, \$4 for each party signing;

(6) For every copy of any instrument recorded in the registrar's or assistant registrar's office, \$1 per page;

(7) For every copy of any instrument recorded in the registrar's or assistant registrar's office, not attested by the registrar's or assistant registrar's seal of office when the copy is made by the person desiring

entitled by law to be recorded, not including veteran's certificates, \$35 for documents up to and including 50 pages;

(2) For recording any instrument of 51 pages or more, entitled by law to be recorded, \$100;

(3) For recording any honorable discharge certificate or other separation or discharge document from the military or naval service of the United States, upon request of a veteran, resident in Hawaii, or the veteran's next of kin, \$0;

(4) For each additional memorandum on certificates required by any one instrument, \$5;

(5) For entry of original certificate of title, or for making and entering a new certificate of title, \$50;

(6) For a certified copy of any certificate of title, \$10;

(7) For a certified copy of any instrument recorded or filed in the registrar's or assistant registrar's office, \$10 plus \$1 per page;

(8) For an uncertified copy of any instrument recorded or filed in the registrar's or assistant registrar's office, when the copy is made by the person duplicating machine provided by the registrar, \$1 per page;

(9) For searching the records, when personnel is available for searching, \$50.00 per hour;

(10) For the registrar's certificate pursuant to section 490-5:525, IIRS, \$25 plus \$5 for each financing statement and for each statement of assignment reported

registrar to reduce or waive fees for copies requested by other governmental agencies. Removed specific listing of payment methods and replaced with "methods of payment approved by the registrar" as new (d).

Amended (e) to reflect fees are deposited into the BOC special fund.

same on a self service duplicating machine provided by the registrar, 50 cents per page or fraction thereof;

(8) For searching the records, when personnel is available for searching, \$50.00 per name for the first year of search, and \$25 per name thereafter for each additional year of search;

(9) For a copy of a plan of land, attested by the registrar's or assistant registrar's seal of office, \$3 for the first square foot and 15 cents for each additional square foot or fraction thereof in the size of the plan, effective July 1, 1997; \$4.50 for the first square foot plus 15 cents per additional square foot, effective January 1, 1998; \$6 for the first square foot plus 15 cents per additional square foot, effective January 1, 1999;

(10) For photographing instruments, etc., for any federal, state or county agency, the cost of the materials used therein, such fees to be used by the registrar for the purchase of necessary materials used in such photographing process;

(11) For a copy of any recorded veteran's honorable discharge or other separation document, 50 cents;

(12) For the registrar's certificate pursuant to section 490:9-407, HRS, \$25 plus \$5 for each financing statement and for each statement of assignment reported therein;

(13) For a copy of any recorded financing statement or statement of assignment, \$1 per page;

(14) For a copy of the daily

therein.

(b) No fees shall be charged for the recordation of any instrument in which the United States, State of Hawaii, or any county of the State of Hawaii is the grantee, lessee, mortgagee, assignee, vendee, licensee, or permittee.

(c) The registrar or assistant registrar may reduce or waive fees for copies requested by federal, state, or county agencies.

(d) Only methods of payment approved by the registrar or assistant registrar may be used.

(e) Except as otherwise provided by law, all fees collected under this section shall be deposited in the bureau of conveyances special fund.

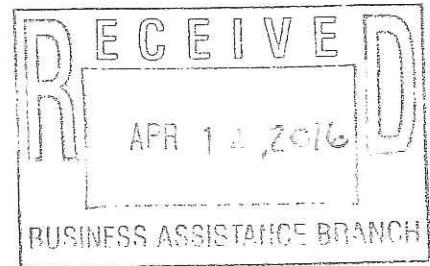
	<p>microfiche index, \$1 per sheet;</p> <p>(15) For a daily copy of the magnetic tapes containing the computerized daily entry record, \$100 per month provided the requesting party furnishes the magnetic tape; or</p> <p>(16) For indexing an instrument recorded while application is pending, \$1.</p> <p>(b) All fees collected under this section shall be deposited in the state treasury to the credit of the general fund.</p>	
13-16-23	<p><u>Copies of instruments, certificates of searches.</u> The registrar or assistant registrar shall, when applied to therefor, furnish an attested copy of any instrument or document recorded in the registrar's or assistant registrar's office, or of any fact appearing upon the registrar's or assistant registrar's records. The registrar or assistant registrar may also issue non-attested portions of any instrument or document recorded in the registrar's or assistant registrar's office. The registrar may issue certificates of search or encumbrance when personnel is available for the making thereof.</p>	Repealed. Restates 502-26 and covered by 13-16-22.
13-16-24	<p><u>Copies of microfilm, charges.</u> The registrar or assistant registrar may authorize any person or agency to use original microfilms of documents recorded in the registrar's office or recorded in the office of the assistant registrar for the purpose of making duplicates of such microfilms. A charge of two cents per frame for each duplicate film shall be paid to the State; provided that no such charge shall be assessed against any</p>	Repealed. Does not reflect current practice and not relevant with the digitization of Bureau records.

	agency of the State of Hawaii or counties thereof. In addition, all costs for duplicating said microfilm shall be borne by the person or agency requesting the use of microfilms. If any person or agency requests rental of the microfilm, the charge will be the costs for duplicating said microfilm.		
13-16-25	<u>Veteran's certificates.</u> The registrar, upon request of a veteran, resident in Hawaii, or the veteran's next of kin, shall record any honorable discharge certificate or other separation or discharge certificate from the military or naval service of the United States of the veteran. No charge shall be made for such recording but no certificate shall be recorded more than once.		Repealed. Restates 502-101, and (no charge) incorporated into 13-16-22 (fees).
13-16-26	<u>Federal judgments, recordation.</u> Judgments of United States courts may be registered, recorded, docketed, and indexed in the bureau in the same manner as judgments of the courts of the State.		Amended. Retitled to cover all judgments, whether by state court, federal court, or out-of-state court -- and used language of 13-16-30 (time share plans) as model -- to reference the underlying statutes.
13-16-27	<u>Federal Tax lien, recordation.</u> [Notices of liens for internal revenue taxes payable to the United States may be recorded in the bureau upon payment of the fee provided in section 13-16-22(1).	<u>Tax liens.</u> Instruments relating to tax liens may be recorded by the registrar or assistant registrar in accordance with this chapter where applicable and also in accordance with chapters 231 and 505, HRS.	Amended. Retitled to cover all tax liens (both federal and state) -- and used language of 13-16-30 as model.
13-16-28	<u>Federal Tax lien. Releases.</u> Certificates of release or of partial discharges of any tax lien containing a reference to the book and page or document number of the registration of the original tax lien are entitled to be recorded in the bureau upon payment of the fee provided	<u>Releases.</u> Certificates of release or of partial discharges of any lien containing a reference to the book and page or document number of the registration of the original lien are entitled to be recorded by the registrar or assistant registrar upon payment of the fee	Amended. Retitled and modified to cover releases of liens, not limited to federal tax liens.

	in section 13-16-22(1).	provided in section 13-16-22(1).	
13-16-29	<u>Condominium property regime.</u> The declaration of condominium property regime and by-laws presented for recordation in the bureau shall be accompanied by a map of the land submitted to the condominium property regime, no larger than twenty-two x thirty-four inches (if reduced, reduction size) depicting the layout, location, apartment numbers and dimensions of the apartments, elevations and registered architect's or professional engineer's certificate referenced in section 514A-12, HRS.	<u>Condominium property regime.</u> A declaration of condominium property regime may be recorded by the registrar or assistant registrar in accordance with this chapter where applicable and also in accordance with chapters 514A or 514B, HRS. as applicable.	Amended. Modified, so that language similar to 13-16-26, 13-16-27, 13-16-30.
13-16-30	<u>Time sharing plans.</u> Time share interests shall be identified by time share periods and recordable with the registrar in accordance with this chapter where applicable and also in accordance with chapter 514E, HRS.	<u>Time sharing plans.</u> Time share interests shall be identified by time share periods and recordable with the registrar or assistant registrar in accordance with this chapter where applicable and also in accordance with chapter 514E, HRS.	Amended. Added reference to 'assistant registrar'
13-16-31	<u>Uniform commercial code.</u> Instruments perfecting security interests under the uniform commercial code shall be recordable with the registrar in accordance with the provisions of this chapter where applicable and also in accordance with chapter 490, HRS.	<u>Uniform commercial code.</u> Instruments perfecting security interests under the uniform commercial code shall be recordable with the registrar in accordance with the provisions of this chapter where applicable and also in accordance with chapter 490, HRS.	Compiled. No change made.
13-16-32	<u>Sale of computerized information.</u> Any party interested in subscribing to computerized information through remote (dial-up) means or magnetic tapes shall be charged \$100 per month, plus a per minute charge after the first five minutes of each log on. An additional charge for printing information at the subscriber's workplace will be included with the per month charge. If subscription is for	<u>Sale of electronic information.</u> The registrar or assistant registrar may contract with third parties to sell electronic versions of recorded information.	Amended. Retitled to current terminology; modified language to more accurately reflect anticipated future practice (e.g., contracting with HIC to provide electronic information to interested parties).

magnetic tapes the magnetic tapes required to furnish the information shall be provided by the subscriber. Any party requiring special programming to extract certain information onto a magnetic tape shall be charged \$100 plus a minimum of \$100 for each month that the party subscribes to computerized information. It is understood by the subscriber that the raw data provided shall not be sold, nor shall exact copies or duplicates of the raw data or portions thereof be sold or otherwise disseminated without the express written permission of the registrar or assistant registrar. This does not prohibit the sale for profit by the subscriber of a value-added information product which incorporates, or is derived from, the raw data.

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Rules Amending Title 13  
Hawaii Administrative Rules

(Date of Board meeting where adopted)

- I. Chapter 16 of Title 13, Hawaii Administrative Rules, entitled "Rules Relating to Conveyances" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

CHAPTER 16

RULES RELATING TO CONVEYANCES

§13-16-1	Purpose
§13-16-2	Definitions
§13-16-3	Office hours
§13-16-4	Recording
§13-16-4.5	Electronic recording standards
§13-16-5	Time of recordation
§13-16-6	Reference to original book and page or document number
§13-16-7	Endorsements
§13-16-8	Acknowledgements
§13-16-9	Repealed
§13-16-10	Repealed
§13-16-11	Repealed
§13-16-12	Repealed
§13-16-13	Repealed
§13-16-14	Repealed
§13-16-15	Repealed
§13-16-16	Repealed
§13-16-17	File plans



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§13-16-18	Repealed
§13-16-19	Repealed
§13-16-20	Repealed
§13-16-21	Copies of plans furnished by registrar
§13-16-22	Fees
§13-16-23	Repealed
§13-16-24	Repealed
§13-16-25	Repealed
§13-16-26	Judgments
§13-16-27	Tax liens
§13-16-28	Releases
§13-16-29	Condominium property regime
§13-16-30	Time sharing plans
§13-16-31	Uniform Commercial Code
§13-16-32	Sale of electronic information

§13-16-1 Purpose. The purpose of these rules is to regulate the recordation and filing of instruments in the bureau of conveyances and office of the assistant registrar. [These rules shall apply to all persons recording instruments in the bureau of conveyances.] [Eff 7/1/91; comp 1/18/97; comp 4/5/99; am and comp (Auth: HRS chapters 231, 490, 502, 504, 505, 514A, 514B, 514E, 634, 636, 636C, 667) (Imp: HRS chapters 231, 490, 502, 504, 505, 514A, 514B, 514E, 634, 636, 636C, 667)]

§13-16-2 Definitions. As used in these rules unless context requires otherwise:

“Approved eRecording Vendor” means those vendors who have agreed to comply with the laws and rules of the state of Hawaii and warrants that any document submitted for eRecording is a true, exact, complete, and unaltered copy of the originating paper document or electronic document.

“Assistant registrar” means [the assistant registrar of the land court of the bureau of conveyances in the department of land and natural resources]the registrar of the bureau of conveyances and the registrar's deputy, authorized by section 501-9, HRS, to carry out the duties of recording and registration required under chapter 501.

“Board” means the Board of Land and Natural Resources.

“Bureau” means the bureau of conveyances in the department of land and natural resources.

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“Document” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Electronic” means relating to technology having electric, digital, magnetic, wireless, optical, electromagnetic, or similar properties.

“Electronic document” means a document that is stored in an electronic medium.

“Electronic signature” means an electronic sound, symbol, or process, attached to or logically associated with a document and executed or adopted by a person with the intent of affixing a signature on the document.

“eRecording” means electronic recording.

“Flysheets” or “cover sheets” means a page attached to the front of an instrument to conform the instrument to the formatting and content requirements provided by Chapter 501 or 502 and these rules.

“Grantee” means a party that acquires interest in real property.

“Grantor” means a party that conveys or transfers interest in real property.

“HRS” means Hawaii Revised Statutes, as amended.

“Instrument” means documents and maps [required to be] presented for recordation or filing or recorded or filed with the bureau or office. Instruments include but are not limited to deeds, mortgages, assignments, modifications, reconveyances, notices of liens, judgments and decrees from courts, federal and state tax liens, satisfactions and releases of liens, agreements of sale, notices of pendency of civil actions, notices of default and intentions to foreclose, condominium property regime declarations, powers of attorney, UCC financing statements, veteran's certificates, and other items as allowed by Chapter 501 and 502.

“Office” means the office of assistant registrar located at the bureau of conveyances where the duties of recording and registration and related activities authorized by section 501-9, HRS, are carried out.

“Paper document” means a document that is inscribed on a tangible medium such as paper.

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"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"Record," "recorded," "recordation," or "recording" means the act of entering instruments into the public records.

"Registrar" means the registrar of the bureau of conveyances appointed by the board of land and natural resources.

"Signature" means the name of a person as written by the individual, [or] the affixing of a mark or fingerprint or toeprint, or electronic signature.  
[Eff 7/25/94; am and comp 1/18/97; am and comp 4/5/99; am and comp           ](Auth: HRS chapter 502) (Imp: HRS chapter 502)

§13-16-3 Office hours[; hours of recordation]. The bureau shall be open from 7:45 a.m. until 4:30 p.m. every day of the year, except on Saturdays, Sundays, and holidays established by law[, but instruments shall only be recorded between the hours of 8:01 a.m. and 3:29 p.m. Every instrument presented for recordation shall be examined by the registrar in the order it is presented for that purpose and if the instrument is entitled by law to be recorded, it shall be recorded:

- (1) at 8:01 a.m. if the instrument was presented to the registrar before 8:01 a.m.;
- (2) As of the time it is accepted by the registrar if the instrument was presented to the registrar between 8:01 a.m. and 3:29 p.m.;
- (3) At 8:01 a.m. the next day the registrar's office is open if the person requesting recordation so requests;
- (4) At 8:01 a.m. the next day the registrar's office is open if the instrument was presented after 3:29 p.m.; or
- (5) On the date and at a time between 8:01 a.m. and 3:29 p.m. pursuant to terms contained in any written agreement with the registrar relating to prechecking and recordation of instruments]. [Eff 7/1/91; am and comp 1/18/97; am and comp 4/5/99; am and comp           ](Auth: HRS §502-4) (Imp: HRS §502-32)

§13-16-4 [Recording Method.]Recording. [(a) The registrar shall make or cause to be made an entire literal copy of all instruments, with their original signature, recorded in the bureau, and the registrar shall certify its correspondence with the original, after which the registrar shall certify upon the exterior, or endorse upon the recorded instrument with the original signature, the date and time of its registry and a document number.

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(b) All names of all natural persons signing in their individual capacity in the instrument shall be typewritten, stamped, or printed manually, or by some other mechanical or electrical printing method beneath all original signatures. No discrepancy in the name shall exist between the name, as it appears in either 1) in the body of the instrument, 2) beneath the original signature, or 3) in the notary's certificate of acknowledgement. All aliases must also be included within the three aforementioned areas. When using generic form acknowledgment pursuant to section 502-41(6), HRS, the name of the person signing in their individual capacity must be typewritten, stamped, or printed manually, or by some other mechanical or electrical printing method beneath the original signature. The provisions of this paragraph shall not apply to any deed or other instrument executed prior to January 1, 1990.

(c) The registrar may refuse to record any instrument of a size larger than eight and one-half inches by eleven inches, or which contains a schedule, inventory, or exhibit in excess of such size. If an instrument consists of more than one page, each page shall be single-sided sheets of written text numbered consecutively, beginning with number one, or the total number of pages contained in the document must be referenced on the first page thereof, without any papers or materials secured or attached in any manner that may conceal any written text, and it shall be stapled once in the upper left corner or fastened and shall not have a cover or backer attached. The registrar shall be permitted to remove any rivets affixed to any instrument. In addition, the first page shall identify and include, if possible, all names of the grantors and all names and addresses of the grantees, the type of document, and the tax map key number. The provisions of this paragraph shall not apply to any instrument executed prior to January 1, 1990.

(d) The registrar may refuse to record all instruments, papers or notices that will not reproduce legibly under photographic or electrostatic methods.]

(a) Every instrument presented for recordation shall be prepared in accordance with chapter 502, HRS.

(b) Notwithstanding any other rule to the contrary, the registrar or assistant registrar may accept an electronic signature in lieu of an original signature if the electronic signature is attached to or logically associated with the document.

(c) The registrar or assistant registrar may refuse to record any instrument that:

(1) has missing or incomplete information required by law;

(2) is submitted without payment of all required fees;

(3) will not reproduce legibly under photographic, electronic, or electrostatic methods;

(4) contains interlineations, erasures or changes that are not initialed in accordance with section 502-63, HRS; or

(5) does not satisfy the requirements of subsection (a). [Eff 7/1/91; am 7/25/94; am and comp 1/18/97; am and comp 4/5/99; am and comp \_\_\_\_\_] (Auth: HRS §§502-4, 502-31, 501-108) (Imp: HRS §502-31, 501-108)

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§13-16-4.5 Electronic recording standards. (a) Notwithstanding any rule to the contrary, the registrar or assistant registrar may accept an electronic document for recording in place of an original paper document.

(b) To keep the standards and practices of eRecording in the state in harmony with the standards and practices of other jurisdictions, with the most recent standards adopted by national standard setting bodies, and with industry best practices, the registrar or assistant registrar may identify approved eRecording vendors authorized to submit electronic documents for recording. [Eff and comp       ] (Auth: HRS §§502-4, 502-123, 501-108) (Imp: HRS §§502-122, 502-123, 501-108)

§13-16-5 [Instrument recorded as of time of delivery]Time of recordation. [Every instrument entitled by law to be recorded shall be recorded in the order and as of the time when the same is delivered and approved by the registrar for that purpose, and shall be considered as recorded from the time of such delivery and approval, provided that the registrar may enter into a written agreement with any person or association, which agreement authorizes an instrument to be recorded between 8:01 a.m. and 3:29 p.m. on a day subsequent to its delivery to the registrar.] Instruments shall be recorded between the hours of 8:00 a.m. and 3:30 p.m. inclusive. Every instrument presented for recordation, whether submitted electronically or in-person, shall be examined by the registrar or assistant registrar in the order it is presented for that purpose, and if after review, the instrument is accepted for recording, it shall be recorded as of the time of acceptance for recording or at 8:01 a.m. on the next business day if the acceptance occurs after 3:30 p.m., provided that the registrar or assistant registrar may enter into a written agreement with any person, which agreement authorizes an instrument to be recorded between 8:00 a.m. and 3:30 p.m. on a day subsequent to its delivery to the registrar or assistant registrar.[Eff 7/1/91; comp 1/18/97; am and comp 4/5/99; am and comp       ] (Auth: HRS §§502-4, 502-123) (Imp: HRS §§502-32, 502-123)

§13-16-6 Reference to original book and page or document number. The registrar shall not record any document unless it contains a reference to the book and page or document number of the recordation of the interest acquired. [No amendment. continuation statement, termination statement, statement of assignment, or statement of release relating to security interests in goods which are or are to become fixtures shall be recorded unless it complies with the requirements of chapter 490, HRS. This rule does not apply to any document mentioned herein which refers to an unrecorded mortgage or lease, if such fact be recited therein.] [Eff 7/1/91; am 7/25/94; comp 1/18/97; am and comp 4/5/99; am and comp       ] (Auth: HRS §§502-4) (Imp: HRS §§502-33)

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§13-16-7 Endorsements [permitted]. The registrar or assistant registrar shall not record any document unless it contains or has endorsed upon it the address of the grantee, the type of document, and total page count. [This rule does not apply to any document executed prior to July 1, 1951.] Endorsements may be made on a conforming flysheet. [Eff 7/1/91; am 7/25/94; am and comp 1/18/97; am and comp 4/5/99; am and comp ] (Auth: HRS §§502-4, 502-31, 501-108) (Imp: HRS §502-31, 502-34, 501-108)

§13-16-8 [Notary's acknowledgement]. Except as provided by sections 502-50 to 502-52, a notary's acknowledgement may be in any form or in a form provided in any of sections 502-41, 502-43, 502-45, or 502-47, HRS but shall include the following:

(1) Individuals. Venue (state or country), date, name of person, statement person is known or proved identity, appeared and signed the instrument before the notary, notary's signature and expiration (if applicable).

(2) Corporations or partnerships. Same as individuals in addition to the following statement: in the capacity shown, having been duly authorized to execute such instrument in such capacity.] Acknowledgments. Where required by law, instruments shall be accompanied by acknowledgments prepared in accordance with applicable law. [Eff 7/1/91; am 7/25/94; am and comp 1/18/97; am and comp 4/5/99; am and comp ] (Auth: §§502-4, 502-31, HRS chapter 456) (Imp: §§502-41 – 502-54, HRS chapter 456)

[§13-16-9 Notary's initials. (a) No instrument acknowledged in the State of Hawaii which contains interlineations, erasures, or changes shall be recorded by the registrar, unless the same are duly initialed by the officer or officers taking the acknowledgement or acknowledgements to the same.

(b) No instrument acknowledged outside the state of Hawaii which contains interlineations, erasures, or changes shall be recorded by the registrar, unless the same are duly initialed by either the parties to the instrument or the officer or officers taking the acknowledgment or acknowledgments to the same.][Eff 7/1/91; am 7/25/94; am and comp 4/5/99; R ]

[§13-16-10 Acknowledgments not required of certain state officers. In the case of an official signature entitled to be judicially noticed pursuant to rule 901 or 902, Hawaii Rules of Evidence, Chapter 626, HRS, the official signature shall suffice to show due execution by the officer signing the instrument and the officer is not required to acknowledge the instrument in order to entitle it to be recorded.] [Eff 7/1/91; comp 4/5/99; R ]

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[§13-16-11 Acknowledgments not required of officers acting on behalf of the United States. When any instrument offered for recordation by any judicial, executive, or administrative officer of the United States, acting in the officer's official capacity, or by any duly authorized officer or agent of any agency or instrumentality of the United States created by or under federal or state law, acting in the officer's or agent's official capacity, it shall not be necessary that the instrument, where the same is required to be signed by the officer or agent, be acknowledged before a notary public by the officer or agent, and the registrar shall accept the instrument for recordation when the signature of the duly authorized officer or agent together with the official seal, if any, is attached to the instrument for recordation.] [Eff 7/1/91; am 7/25/94; am and comp 4/5/99; R ]

[§13-16-12 Acknowledgment outside the United States; by members of the armed forces. (a) Acknowledgments of deeds or other instruments in order to entitle the same to be recorded, when made outside the United States may be made by:

(1) Any officer now authorized by the laws of the State:

(2) Any officer of the United States diplomatic or consular officer under the officer's seal of office; and

(3) Any person authorized by the law of any foreign country to take such acknowledgement, when such acknowledgment is accompanied by a certificate to the effect that the person taking the same is duly authorized thereto and that such acknowledgment is in the manner prescribed by the laws of the foreign country or by treaty or international agreement of the United States. The certificate may be made by a diplomatic or consular officer of the United States under the seal of his office or by a diplomatic or consular officer of the foreign country, resident in the State, under the seal of his office with the signature or facsimile of the signature of the diplomatic or consular officer of the United States.

(b) Acknowledgments may also be made by any person in the armed forces of the United States, or by any person without the United States, before any officer of the armed forces authorized by Congress to exercise the powers of a notary public. The signature without seal of any officer acting as such notary public is prima facie evidence of the officer's authority.] [Eff 7/1/91; comp 1/18/97; am and comp 4/5/99; R ]

[§13-16-13 Judgment lien: satisfaction. Any judgment or decree of a court of competent jurisdiction, whether a federal court or a court of the State of Hawaii if certified as correct by a clerk of the court where it is entered, may be recorded with the registrar. Every judgment lien must contain the defendant's social security number, State of Hawaii general excise taxpayer identification number, or if that information is not in

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the possession of the party seeking registration of the judgment, a statement that the information does not exist or is not in the possession of the party seeking registration of the judgment. Judgments pursuant to eminent domain proceedings will not require the social security number or general excise taxpayer identification number. The effect of such recordation as creating a lien and the duration of any such lien shall be as provided by section 636-3, HRS.][Eff 7/1/91; am 7/25/94; am and comp 1/18/97; am and comp 4/5/99; R ]

[§13-16-14 Foreign judgment; satisfaction. A certified copy of any judgment decree or order of a court of the United States or of any other court which is entitled to full faith and credit in this State, when filed in the office of the clerk of the appropriate court of this State may be recorded with the registrar. The effect of such recordation and the enforceability or satisfaction of the recorded judgment shall be as provided by chapter 636C, HRS. Every judgment lien must contain the defendant's social security number, State of Hawaii general excise taxpayer identification number or federal employer identification number or if that information is not in the possession of the party seeking registration of the judgment, a statement that the information does not exist or is not in the possession of the party seeking registration of the judgment.] [Eff 7/1/91; am 7/25/94; am and comp 1/18/97; am and comp 4/5/99; R ]

[§13-16-15 Power of attorney, etc. All articles of marriage settlement and powers of attorney for the transfer of real property within the State shall be recorded in the Bureau. The effect of the death, disability or incapacity of the principal shall be as provided by section 560:5-502 HRS and common law.] [Eff 7/1/91; comp 1/18/97; am and comp 4/5/99; R ]

[§13-16-16 Entry record. The registrar shall make and keep in such form and manner as is prescribed by the board a permanent record of the receipt of every document left for record, and every plan filed, and shall note on the record, in addition to a description sufficient to identify the document, the date of its receipt and such other acts as are prescribed by the board.] [Eff 7/1/91; comp 1/18/97; am and comp 4/5/99; R ]

§13-16-17 File plans. (a) The registrar shall accept and file in the registrar's office, upon the payment of the fee as provided in section 13-16-22. any plan of land prepared in the manner prescribed in section 502-17, HRS.

(b) The plan shall first be referred to the state land surveyor in the department of accounting and general services who shall cause the same to be checked as to form and



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mathematical correctness but not on the ground. If the plan is drawn in accordance with sections 502-17, 502-18, and 502-19, HRS, the department shall endorse its approval of the plan on the face thereof, after which the plan may be filed of record.

(c) On receipt for recordation of a transfer or separate description document concerning a lot in a subdivision, the registrar shall accept and file the document with:

- (1) A metes and bounds description, either solely or as part of the document; and
- (2) A certified plat map; or
- (3) A letter from a registered professional surveyor, certifying that the metes and

bounds description confirms to the accompanying plat map. Plans of land shall be prepared in accordance with chapter 502, HRS.

Any file plan may be amended by recording an affidavit executed by the surveyor, owner, or owner's attorney-at-law. The document number of the amendment will be noted on the file plan.

The document shall otherwise comply with the requirements for recordation under this rule. [Any parcel created or subdivided prior to the effective date of this subdivision laws of the respective counties is exempt from the provisions of this subsection.]

The registrar may refuse to accept and file any plan that does not satisfy the requirements of subsection (a). [Eff 7/1/91; am and comp 1/18/97; am and comp 4/5/99; am and comp ] (Auth: §502-4) (Imp: §§502-17 – 502-24)

§13-16-18 Description: lot subdivisions. A metes and bounds description of the exterior boundaries of a parcel or parcels of land sought to be registered as a file plan shall be prepared in accordance with section 502-18, HRS and shall be written upon the plan, or printed or typewritten on unruled good quality white paper of a size not larger than eight and one-half inches by eleven inches. The description shall be filed in duplicate with the file plan, and shall be dated and signed by the surveyor making the field survey, or under whose supervision the field survey was executed. Any printed or typewritten description filed separately with the file plan shall be recorded with the registrar and the book and page or document number thereof noted on the file plan. Recordation expenses shall be charged to the owner. [Eff 7/1/91; am and comp 1/18/97; am and comp 4/5/99; R ]

§13-16-19 Plans on tracing cloth: size: scale. All plans must be on tracing cloth of good quality, and shall be of one of the following sizes, the figures indicating inches: 10 x 15; 15 x 21; 21 x 32; 30 x 36; 36 x 42; 48, or 54 inches wide without restrictions as to length; which plans shall be prepared and drawn according to one of the following scales: 10, 20, 30, 40, 50, 100, 200, 300, 400, 500, 1000, 2000, 3000, 4000, or 5000 feet to an inch. [Eff 7/1/91; comp 1/18/97; am and comp 4/5/99; R ]

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[§13-16-20 Recording of plans unlawful. The registrar shall not record any plan of land, whether attached to, made a part of, or independent of, any instrument; to the end and purpose that there shall be no plans recorded in the record books, but in substitution therefor there shall be a single method of filing plans in the bureau: provided that where sketches, blueprints, or plans of land of a size not larger than eight and one-half inches by eleven inches which legibly reproduce under photographic or electrostatic methods are attached to instruments and made a part thereof by reference to the same in the instrument, the registrar may record the same in the record books by means of the photographic recorder, on payment of the fee as provided in section 13-16-22.] [Eff 7/1/91; am and comp 1/18/97; comp 4/5/99: R ]

§13-16-21 Copies of plans [furnished by registrar.] [The registrar shall furnish, when so requested, copies of any map or plan filed in the registrar's or assistant registrar's office duly certified by the registrar's office or assistant registrar's seal of office, upon payment of the fee provided in section 13-16-22. In addition, the] The registrar or assistant registrar may authorize the state land survey administrator of the department of accounting and general services to furnish[, when so requested,] copies of [such] maps or plans[, subject to the payment of fees applicable to maps or plans furnished by the registrar]. [Eff 7/1/91; am and comp 1/18/97; am and comp 4/5/99; am and comp ](Auth: §§502-4, 502-25) (Imp: HRS §502-22)

§13-16-22 Fees. (a)[The] Except as provided in subsections (b) and (c), the registrar or assistant registrar [is entitled to demand] may charge fees [set by the board and receive payment by cash, check, bank draft, cashier's check, money order, or Visa/Master/Discover charge. No fees shall be charged for the recordation of any instrument in which the United States, State of Hawaii, or any county of the State of Hawaii, is the grantee, lessee, mortgagee, assignee, vendee, licensee, permittee] as follows:

(1) For recording any instrument entitled by law to be recorded, [including releases or partial releases of State tax liens] not including veteran's certificates, [\$25] \$35 for documents up to and including 50 pages [for the first twenty pages and \$1 for each additional page or fraction thereof and for instruments executed after June 30, 1995, not conforming to eight and one-half inches by eleven inches, an additional fee of \$20];

(2) For recording any instrument of 51 pages or more, entitled by law to be recorded, \$100;

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(3) For recording any honorable discharge certificate or other separation or discharge document from the military or naval service of the United States, upon request of a veteran, resident in Hawaii, or the veteran's next of kin, \$0;

[(2)](4) For each additional memorandum on certificates [in excess of four] required by any one instrument, [\$1]\$5;

[(3)](5) For entry of original certificate of title, or for making and entering a new certificate of title, [\$25]\$50 [if contained within one page. For each additional page or fraction thereof, \$1];

[(4)](6) For a certified copy of any certificate of title, [\$2. For each additional page or fraction thereof, \$1] \$10;

[(5) For taking any acknowledgment preparatory to registry. \$4 for each party signing;]

[(6)](7) For [every] a certified copy of any instrument recorded or filed in the registrar's or assistant registrar's office, \$10 plus \$1 per page;

[(7)](8) For [every] an uncertified copy of any instrument recorded or filed in the registrar's or assistant registrar's office, [not attested by the registrar's or assistant registrar's seal of office] when the copy is made by the person [desiring same on a self service] duplicating machine provided by the registrar, [50 cents per page or fraction thereof] \$1 per page;

[(8)](9) For searching the records, when personnel is available for searching, \$50.00 per [name for the first year of search, and \$25 per name thereafter for each additional year of search] hour;

(9) For a copy of a plan of land, attested by the registrar's or assistant registrar's seal of office, \$3 for the first square foot and 15 cents for each additional square foot or fraction thereof in the size of the plan, effective July 1, 1997; \$4.50 for the first square foot plus 15 cents per additional square foot, effective January 1, 1998; \$6 for the first square foot plus 15 cents per additional square foot, effective January 1, 1999;

(10) For photographing instruments, etc., for any federal, state or county agency, the cost of the materials used therein, such fees to be used by the registrar for the purchase of necessary materials used in such photographing process;

(11) For a copy of any recorded veteran's honorable discharge or other separation document, 50 cents;

[(12)](10) For the registrar's certificate pursuant to section [490:9-407]490-5:525, HRS, \$25 plus \$5 for each financing statement and for each statement of assignment reported therein[;].

[(13) For a copy of any recorded financing statement or statement of assignment, \$1 per page;

(14) For a copy of the daily microfiche index, \$1 per sheet;

(15) For a daily copy of the magnetic tapes containing the computerized daily entry record, \$100 per month provided the requesting party furnishes the magnetic tape:  
or

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(16) For indexing an instrument recorded while application is pending, \$1.]

(b) No fees shall be charged for the recordation of any instrument in which the United States, State of Hawaii, or any county of the State of Hawaii is the grantee, lessee, mortgagee, assignee, vendee, licensee, or permittee.

(c) The registrar or assistant registrar may reduce or waive fees for copies requested by federal, state, or county agencies.

(d) Only methods of payment approved by the registrar or assistant registrar may be used.

[(b)](e) [All] Except as otherwise provided by law, all fees collected under this section shall be deposited [in the state treasury to the credit of the general fund] in the bureau of conveyances special fund. [Eff 7/1/91; am 7/25/94; am and comp 1/18/97; am and comp 4/5/99; am and comp ] (Auth: HRS §§490:9-525, 501-107, 501-218, 502-4, 502-8, 502-25, 502-27, 502-101, 505-4, 636-3) (Imp: HRS §§490:9-525, 501-107, 501-218, 502-8, 502-25, 502-27, 502-101, 505-4, 636-3)

[§13-16-23 Copies of instruments, certificates of searches. The registrar or assistant registrar shall, when applied to therefor, furnish an attested copy of any instrument or document recorded in the registrar's or assistant registrar's office, or of any fact appearing upon the registrar's or assistant registrar's records. The registrar or assistant registrar may also issue non-attested portions of any instrument or document recorded in the registrar's or assistant registrar's office. The registrar may issue certificates of search or encumbrance when personnel is available for the making thereof.] [Eff 7/1/91; comp 1/18/97; am and comp 4/5/99; R ]

[§13-16-24 Copies of microfilm, charges. The registrar or assistant registrar may authorize any person or agency to use original microfilms of documents recorded in the registrar's office or recorded in the office of the assistant registrar for the purpose of making duplicates of such microfilms. A charge of two cents per frame for each duplicate film shall be paid to the State; provided that no such charge shall be assessed against any agency of the State of Hawaii or counties thereof. In addition, all costs for duplicating said microfilm shall be borne by the person or agency requesting the use of microfilms. If any person or agency requests rental of the microfilm, the charge will be the costs for duplicating said microfilm.] [Eff 7/1/91; am and comp 1/18/97; am and comp 4/5/99; R ]

[§13-16-25 Veteran's certificates. The registrar, upon request of a veteran, resident in Hawaii, or the veteran's next of kin, shall record any honorable discharge certificate or other separation or discharge certificate from the military or naval service of

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the United States of the veteran. No charge shall be made for such recording but no certificate shall be recorded more than once.] [Eff 7/1/91; am 7/25/94; comp 1/18/97; comp 4/5/99; R ]

§13-16-26 [Federal judgments. recordation] Judgments. [Judgments of United States courts may be registered, recorded, docketed, and indexed in the bureau in the same manner as judgments of the courts of the State.] Judgments of a court of competent jurisdiction may be recorded by the registrar or assistant registrar in accordance with this chapter where applicable and also in accordance with chapters 501, 502, 504, 636, and 636C, HRS. [Eff 7/1/91; comp 1/18/97; comp 4/5/99; am and comp ](Auth: §§502-4, 501-102) (Imp: §§502-33, 504-1, 636-3, 636C-3)

§13-16-27 [Federal Tax lien. recordation] Tax liens. [Notices of liens for internal revenue taxes payable to the United States may be recorded in the bureau upon payment of the fee provided in section 13-16-22(1).] Instruments relating to tax liens may be recorded by the registrar or assistant registrar in accordance with this chapter where applicable and also in accordance with chapters 231 and 505, HRS. [Eff 7/1/91; comp 1/18/97; am and comp 4/5/99; am and comp ](Auth: §§502-4, 501-102) (Imp: §§231-33, 505-1, 505-3)

§13-16-28 [Federal Tax lien. ]Releases. Certificates of release or of partial discharges of any [tax] lien containing a reference to the book and page or document number of the registration of the original [tax] lien are entitled to be recorded [in the bureau] by the registrar or assistant registrar upon payment of the fee provided in section 13-16-22(1). [Eff 7/1/91; comp 1/18/97; am and comp 4/5/99; am and comp ](Auth: §§502-4, 501-102) (Imp: §§502-33, 505-3)

§13-16-29 Condominium property regime. [The declaration of condominium property regime and by-laws presented for recordation in the bureau shall be accompanied by a map of the land submitted to the condominium property regime, no larger than twenty-two x thirty-four inches (if reduced, reduction size) depicting the layout, location, apartment numbers and dimensions of the apartments, elevations and registered architect's or professional engineer's certificate referenced in section 514A-12, HRS.] A declaration of condominium property regime may be recorded by the registrar or assistant registrar in accordance with this chapter where applicable and also in accordance with chapters 514A or 514B, HRS, as applicable. [Eff 7/1/91; am and comp 1/18/97; comp 4/5/99; am and

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comp     ](Auth: §502-4) (Imp: §§514A-11, 514B-31)

§13-16-30 Time sharing plans. Time share interests shall be identified by time share periods and recordable with the registrar or assistant registrar in accordance with this chapter where applicable and also in accordance with chapter 514E, HRS. [Eff 7/1/91; am and comp 1/18/97; am and comp 4/5/99: comp     ] (Auth: §502-4) (Imp: §§514E-1, 514E-21)

§13-16-31 Uniform commercial code. Instruments perfecting security interests under the uniform commercial code shall be recordable with the registrar in accordance with the provisions of this chapter where applicable and also in accordance with chapter 490, HRS. [Eff 7/1/91; am 7/25/94; comp 1/18/97; comp 4/5/99; comp     ] (Auth: §502-4) (Imp: HRS chapter 490)

§13-16-32 Sale of [computerized] electronic information. [Any party interested in subscribing to computerized information through remote (dial-up) means or magnetic tapes shall be charged \$100 per month, plus a per minute charge after the first five minutes of each log on. An additional charge for printing information at the subscriber's workplace will be included with the per month charge. If subscription is for magnetic tapes the magnetic tapes required to furnish the information shall be provided by the subscriber. Any party requiring special programming to extract certain information onto a magnetic tape shall be charged \$100 plus a minimum of \$100 for each month that the party subscribes to computerized information. It is understood by the subscribed that the raw data provided shall not be sold, nor shall exact copies or duplicates of the raw data or portions thereof be sold or otherwise disseminated without the express written permission of the registrar or assistant registrar. This does not prohibit the sale for profit by the subscriber of a value-added information product which incorporates, or is derived from, the raw data.]The registrar or assistant registrar may contract with third parties to sell electronic versions of recorded information." [Eff 7/1/91; am 7/25/94; comp 1/18/97; comp 4/5/99; am and comp     ] (Auth: HRS §§502-4, 502-25) (Imp: HRS §502-25)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.
3. Additions to update source notes to reflect these amendments are not underscored.
4. These amendments to and compilation of chapter 13-16, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor.


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I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on 2016, and filed with the Office of the Lieutenant Governor.



SUZANNE CASE  
Chairperson, Board of Land and Natural  
Resources

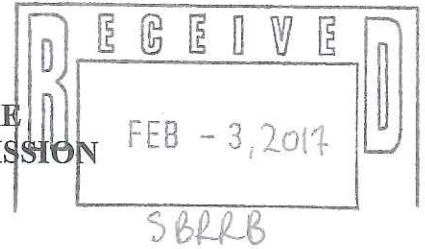
APPROVED AS TO FORM:

  
Deputy Attorney General

## Exhibit 3



RULES OF PRACTICE AND PROCEDURE OF THE  
KAUAI HISTORIC PRESERVATION REVIEW COMMISSION



**Chapter I. General Provisions**

1-1-1 Purpose. The intent and purpose of the rules of practice and procedure of the Kauai Historic Preservation Review Commission is to provide a systematic and democratic method of conducting meetings and hearings in order to insure that all persons and parties will have an opportunity to participate in an open, productive, and orderly manner.

1-1-2 Definitions. As used in these Rules, except as otherwise required by context:

- (1) "Agency" means the Planning Department of the County of Kauai or its authorized representative.
- (2) "Commission," "Chairperson" and the "Commissioner" means the Kauai Historic Preservation Review Commission of the County of Kauai, State of Hawaii, its Chairperson, and a member thereof, respectively.
- (3) "Director" means the Planning Director of the County of Kauai.
- (4) "Ex parte communication" means private communication or arguments with members of the commission or its hearing officer as to the merits of a proceeding with a view towards influencing the outcome of a proceeding.
- (5) "HRS" means Hawaii Revised Statutes
- (6) "Meetings" means the convening of the Commission for which a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the Commission had advisory power.
- (7) "Person" means when appropriate to the context, not only individuals, but corporations, firms, associations, societies, and federal, state and county departments of agencies.
- (8) "Presiding Officer" means and shall include any member of the Commission or hearing a hearing officer duly designated as such. Unless otherwise designated, the Chairperson shall be the presiding officer.
- (9) "Proceeding" means any matter that is brought before the Commission in which it has advisory authority.
- (10) "Public Record" means the same as defined in Chapter 92, HRS, and shall include maps, rules and regulations, written statements of policy or interpretation formulated, adopted or used by the commission meetings and records of any docket on file with

the Commission but shall not include records which invades the right of privacy of an individual.

- (11) "Rules" means the Rules of Practice and Procedure before the Commission.

## **Chapter II. Organization & Parliamentary Rules**

### **1-2-1 Commission Members**

- (a) The Historic Preservation Review (HPR) Commission shall consist of nine (9) members, eight (8) of whom shall be appointed by the Mayor and the Council as provided in Sec. 23.02(B)(2) of the County Charter, as amended. At least five (5) of the HPR Commissioners shall be professionals of special expertise or interest from five (5) of the following disciplines: architecture; architectural history; archaeology; history; planning; or Hawaiian culture. The Mayor shall appoint four (4) members, with at least one (1) being a professional in history, one (1) in Hawaiian culture, and one (1) in Planning. The Council shall appoint four (4) members with at least one (1) being a professional in archaeology and one (1) in architecture/architectural history. The disciplines of archaeology, architecture or architectural history, history and Hawaiian culture must have professional representation on the HPR Commission, to the extent that such professionals are available in the County. In the event such expertise is not available within the County of Kaua'i, experts from within the State may be contacted to service the HPR Commission. When one (1) of these six (6) disciplines is not represented in the HPR Commission membership, the HPR Commission shall seek through appropriate means to acquire expertise in such missing area when considering National Register nominations and other actions that will impact properties which are normally evaluated by a professional in such a discipline. In addition, to the extent possible, there shall be one (1) representative HPR Commissioner from each of the five (5) Planning Areas in the County of Kaua'i.
- (b) The terms of the HPR Commissioners shall be staggered, with the initial appointments as follows:
- (1) One (1) year term: two (2) Mayor-appointed HPR Commissioners and two (2) Council-appointed HPR Commissioners.
  - (2) Two (2) year term: two (2) Mayor-appointed HPR Commissioners and two (2) Council-appointed HPR Commissioners.
  - (3) Three (3) year term: the HPR Commissioner appointed by the eight (8) HPR Commissioners previously appointed by the Mayor and the Council.

- (4) Thereafter, the term of the office of the HPR Commissioners shall be three (3) years. No HPR Commissioner shall serve more than two (2) successive three (3) year terms. Should a vacancy arise prior to completion of the term, an appointment to fill such vacancy shall be made by the respective appointing authority only for the unexpired portion of the term.

1-2-2 Organization. At the regular January meeting of each year, the Commission shall elect a chairperson and Vice-Chairperson from among its members. They shall serve for a term of one year or until their successors are duly elected. No member shall succeed himself or herself as chairperson. In the event the Commission is not able to elect a regular Chairperson or Vice-Chairperson from among its members at its first January meeting, the incumbent chair may serve on a hold-over basis for a term not to exceed-ninety (90) days.

1-2-3 Meetings.

- (a) Regular meetings of the Commission shall be held every fourth Thursday of the month or on such day as the Commission may designate. The Place of meeting shall be the Lihue Civic Center, or such other place as may be designated by the Commission.
- (b) Subject to the conditions prescribed by these rules, special-meetings may be called at any time by the chairperson, director, or a majority of the commission, who shall state the subject thereof, and the acts and business of the commission at such special meeting shall be confined to such matters.
- (c) Each member shall be given oral or written notice at least (5) working days prior to a special meeting, unless waived by such member.
- (d) The Commission shall prepare and post an agenda for all meetings of the commission and its committee's identifying the date, time, place, and subjects to be considered in compliance with the provisions of Chapter 91 and 92, HRS.

1-2-4 Adjournment. Meetings may be adjourned at any time by vote, and unless otherwise specified in the motion, every adjournment shall be deemed to be the next meeting of the Commission.

1-2-5 Quorum and Number of Votes Necessary for a Decision. Unless otherwise provided by law, a majority of all the members to which the Commission is entitled shall constitute a quorum to transact business, and the concurrence of a majority of Commission members present shall be necessary to make a Commission decision valid, failing which there shall have been no valid action taken.

1-2-6 Continuation of Decision Making. Any matter which fails to be validated by majority concurrence of Commission members present may be continued to any subsequent regular meeting.

1-2-7 Effective Date of Commission Decision. Unless a specific effective date is set forth, the effective date of a decision rendered by the Commission shall be the date of the meeting at which such valid decision was made.

1-2-8 Minutes and Transcripts

- (a) Meetings. In accordance to HRS 92-9, the commission shall keep written minutes of all meetings. Unless otherwise required by law, neither a full transcripts nor a recording of the meeting is required, but the written minutes shall give a true reflection of the matters discussed at the meeting and the views of the members.
- (b) Copies of Recordings. In cases where copies of prerecorded tapes are requested, a fee \$5.00 per hour (rounded off to the nearest half hour) of recording time shall be assessed in addition to the costs of the tapes used (rounded off to the nearest \$.50). Charges may be waived or modified when the requesting person provides the recording equipment, tapes, and performs the recording subject to conditions and supervision by the planning department.

1-2-9 Officers and their Duties.

- (a) Presiding Officer. The Chairperson shall be the presiding officer of the Commission and the Vice-Chairperson shall be the presiding officer in the absence of the chairperson. The presiding officer shall:
  - (1) Open all meeting of the Commission at the appointed hour by taking the chair and calling the meeting to order;
  - (2) Call for the approval of the minutes of any preceding meetings when a quorum is present;
  - (3) Maintain order and proper decorum;
  - (4) Announce the business before the Commission in the order prescribed by the rules;
  - (5) Review all matters properly brought before the Commission, call for votes upon the same and announce the results;
  - (6) Appoint all committees unless otherwise ordered by the Commission;
  - (7) Authenticate by signature all acts of the Commission as may be required by law, unless delegated to the Planning Director;
  - (8) Do and perform such other duties as may be required by law, or such as may be properly appertain to such office;

- (9) Make known all rules of order when so requested, and to decide all questions or order, subject to an appeal to the Commission;
  - (10) Take into consideration such matters as shall not be within the scope of the duties of powers of any standing committee of the Commission; or as may be referred by the Commission, and to report thereon, together with such recommendations relative thereto as deemed advisable; and
  - (11) Represent the Commission in all functions, not otherwise directed by the Commission as the titular head of the Commission.
- (b) Clerk. The Planning Director shall serve as Clerk of the Commission and shall be directly responsible, or through staff members, to provide the following services;
- (1) To receive, submit, and coordinate all matters properly brought before the Commission in consultation with the chairperson;
  - (2) To provide the agenda support materials for all meetings.
  - (3) To read bills, resolutions, and other matters to the Commission, as so required;
  - (4) To forward at once to the proper parties all communications and other matters, either directly or through a committee, as the case may be;
  - (5) To deliver immediately to the chairperson of the appropriate committee all petitions, resolutions, bills or other matters as may be duly referred to such committee;
  - (6) To serve in all matters as ex-officio clerk of the Commission and to do and perform all clerical duties and services pertaining to such position as the Commission shall from time to time direct, and such as shall by law or the rules, or rules hereafter adopted, be assigned or such as properly pertain to such position;
  - (7) To have charge of all records of the Commission and be responsible for the same.

1-2-10 Committees. There shall be two kinds of committee:

- (1) Standing Committees, which shall not exceed five members each.
- (2) Select Committees, which shall not exceed five members each.

1-2-11 Committee Organization.

- (a) All committees of the Commission, contemplated under these rules, shall be appointed by the Chairperson subject to confirmation by a majority vote of the members of the Commission.
- (b) The first person named on a committee shall be the chairperson unless otherwise designated. The Committee Chairperson shall call and preside over committee meetings and may designate temporary alternate members in order to achieve a quorum and to take action in cases where members are absent.
- (c) No member shall serve as chairperson of more than one Standing Committee of the Commission.
- (d) No committee shall meet while the Commission is in session.
- (e) Committees shall be under the control and subject to the orders and appropriate rules of the Commission, and shall faithfully carry out such orders.
- (f) Vacancies on the standing committees shall be filled by the Chairperson of the Commission unless otherwise designated in subsection (b) above and no member of the standing committee shall resign therefrom without the consent and approval of the Commission.
- (g) A majority of the entire membership to which the committee is entitled shall constitute a quorum and the majority vote of the membership present shall be necessary to take any action.

1-2-12 Standing Committees. The Commission may establish the necessary standing committees to further the responsibilities and functions of the Kauai Historic Preservation Review Commission.

1-2-13 Select Committees. A Select Committee shall consist of up to five (5) members, unless otherwise ordered by the Commission and shall be appointed from time to time as the occasion requires, serving until discharged after finally reporting on the special matter referred to it.

1-2-14 Committee Reports.

- (a) Every committee shall be responsible for writing and submitting a meeting summary to include a list of attendees, topics covered, decisions and/or recommendations to the Commission as whole.
- (b) Committee chairperson or other committee members shall report to the whole Commission at its meetings about the Committee's work on matters referred to them.
- (c) Select Committees shall report as required by the Commission upon all matters referred to them, unless further time is allowed by vote of the Commission.

- (d) Whenever any matter is referred to a committee, it shall be the duty of such committee to make diligent inquiry into all of the facts and circumstances connected with such matter. If necessary, the County Attorney may be consulted, documents and records searched, and everything done to bring all facts pertaining to such matter before the Commission.
- (e) The report of the committee on any matter shall provide an evaluation and recommendation as to the disposal of such matter.

1-2-15 Permitted Interactive Group. Pursuant to the rules and regulations of Hawaii Revised Statutes, Section 92-2.5, as amended, interaction of members is permissible.

1-2-16 Voting.

- (a) There shall be three methods of ascertaining the decision of the Commission upon any matter:
  - 1<sup>st</sup>, by call of the members and a record made by the Clerk of the vote of each member;
  - 2<sup>nd</sup>, by viva voca vote;
  - 3<sup>rd</sup>, by unanimous consent.
- (b) Whenever the Commission is ready to vote on any questions, the Chairperson after stating the question, shall put such question to a vote, then announce the result of the vote to the commission. Upon the request if any member of the Commission, the Clerk shall call the roll. Unless a member is excused from voting, his silence shall be recorded as an affirmative vote.
- (c) No member shall refrain from voting unless excused by the Commission.
- (d) Whenever the ayes and noes are called, no one, without the unanimous consent, shall be permitted to explain his vote; and after the announcement of the result, no one shall be permitted to vote or to change his vote.

1-2-17 Standards of Conduct.

- (a) Disclosure of interest. Whenever a possible direct personal financial interest on any matter pending before the Commission or any of its committees becomes apparent, the affected member shall promptly make a disclosure to the Commission. When a member had made a disclosure of interest and is deemed by the Commission to have as conflict of interest, such conflict shall apply to all subsequent actions relating to said matter. A member with conflict of interest shall refrain from voting except where

the member's vote is required to constitute a quorum to act in which event he shall be permitted to vote.

- (b) Code of Ethics. All Commission members and officers and employees of the Agency shall be subject and comply with the provision of Chapter 3, Article I, of the Kauai County Code, as amended.

1-2-18 Petitions and Submittals to the Commission. Any person may petition the Commission. Petitions and other submittals shall be in writing, signed by the petitioners or persons presenting them.

1-2-19 Motions and Amendments. Motions and amendments may be verbal, but shall be reduced to writing if requested by the chair, and shall be read from the Clerk's desk, if so desired.

1-2-20 Motions and Priorities.

- (a) No motion shall be received and considered by the Commission until the same has been seconded.
- (b) After a motion is stated or read by the chair, it shall be deemed in the possession of, and shall be disposed of by vote of the Commission. However, it may be withdrawn by the mover with the consent of the second at any time before a vote or amendment.
- (c) Whenever any question shall be under discussion, the motions in order relative thereto prior to a vote shall be: first, to table; second, to previous question; third, to modify debate; fourth, to postpone definitely; fifth, to commit or recommit; and sixth, to amend; which motions shall have precedence in the order named. The first four motions shall be decided without debate, and shall be put as soon as made.
- (d) When any of said motions shall be decided in the negative, the same shall not be revived at the same meeting relative to the main question under discussion. If all are negative as aforementioned, the only remaining question shall be as to the passage or adoption of the application or any other main question.
- (e) No member shall speak longer than five (5) minutes, nor more than twice on the same question without leave of the Commission, unless the member is the mover of the question pending, in which case the member shall be permitted to speak in reply, but not until every member choosing to speak shall have had the opportunity to speak.

1-2-21 Reconsideration. When a motion has been once made and carried in the affirmative or negative, only a member who voted with the prevailing side may move, at the same meeting, or at the next meeting, to reconsider it, and such motion shall take precedence over all other questions except a motion to adjourn.



#### 1-2-22 Order and Decorum

- (a) No person shall sit at the desk of the presiding officer or clerk except by permission of the Chairperson, or at the desk of any commissioner, except by permission of that commissioner.
- (b) While the Chair is putting any question or addressing the Commission, no one shall walk out of the meeting room or across the floor; nor shall anyone entertain a private discourse, or pass between the member and Chair while the member is speaking.
- (c) When member are about to speak, they shall address themselves to the Chair, and shall confine their comments to the question under discussion, avoiding personalities.
- (d) If any member, in speaking or otherwise, transgresses these rules of procedure, the chair, or any member, may call him to order, and when so called to order, he shall immediately quiet down. The Chair shall then decide the question or order without debate, subject to an appeal to the Commission. In addition, the Chair may call for the sense of the Commission on any question of order.
- (e) Whenever any person shall be called to order while speaking, the member shall be deemed to be in possession of the floor when the question of orders is decided, and may proceed with the matter under discussion within the ruling made on the question of order.
- (f) No unauthorized person shall enter the floor of commission except by permission of the presiding officer. The term "floor of Commission" shall mean that portion of the meeting room general occupied by the Commission and as may be specifically designated by the presiding officer. The presiding officer shall determine, with concurrence of Commissioners, when members of the public may speak on topics being discussed and whether any time limitations per speaker will be set.
- (g) Any person or persons who willfully disrupt a meeting or hearing to prevent and compromise the conduct of the meeting may be removed from the room.

#### 1-2-23 Order of Business.

- (a) After roll-call and the approval of the agenda and minutes, the Presiding Officer shall call for business in the following order:
  - 1. General business matters before the commission and announcements
  - 2. Communications

3. Committee Reports

4. Unfinished Business or Old Business

5. New Business

- (b) The Commission may, by previous motion, direct that any matter be made a special order of business, which shall take precedence as indicated in the order.
- (c) The unfinished business or old business in which the Commission was engaged at the time of the last adjournment shall have the preference in the order of the day except for general business and announcements, communications, and committee reports, and invited speakers, and no other business shall be received until such unfinished business is disposed of, unless by special leave of the Commission.
- (d) All questions relating to priority of business to be acted upon by the Commission shall be decided without debate.

1-2-24 Question or Order. A question of order may be raised at any stage of the proceedings, except during a calling of the roll when the ayes and noes are called for. Such questions shall be decided by the Chair, without debate, subject to an appeal to the Commission.

1-2-25 Computation of Time. In computing any period of time under the rules herein, by notice, or by any order or regulation of the Commission, the time begins with the day following that act, event, or default, and includes the last day of the period unless it is a Saturday, Sunday, or legal holiday in which event the period runs until the close of the business of the next day which is not a Saturday, Sunday, or holiday.

1-2-26 Attendance. No member shall be absent from the service of the Commission, unless the member has so advised the Chair prior to the meeting or be sick and unable to attend.

1-2-27 News Reporters. News reporters wishing to take notes of the business of the Commission may be assigned such places by the Chair without interfering with the convenience of the Commission.

1-2-28 New Rules and Amendments. No rule of the Commission shall be altered or rescinded, nor shall any new rules be adopted without the affirmative vote of at least five (5) members of the Commission.

1-2-29 When Rules are Silent. For good cause, the Commission may vote to suspend the rules.

1-2-30 Severability. If any provision of these Rules and Practice and Procedures or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of these Rules of Practice and Procedures which can be given

effect without the invalid provision or application, and to this end the provisions of these Rules of Practice and Procedures are severable.

### **Chapter III. Public Records, Inspection and Availability**

1-3-1 Inspection of Public Records. All public records shall be available for inspection and copying by any person during established office hours and within reasonable timelines unless public inspection of such records is in violation of any other state or federal law.

#### 1-3-2 Where Available.

- (a) The Public may obtain information on matters within the jurisdiction of the Planning Department and Commission for the County of Kauai, by inquiring at the principle place of business of the Planning Department. All rules, orders or opinions of the agency are on file and available for public inspection at this office during business 4444 Rice Street, Suite A473, Lihue, Kauai 96766-1326.
- (b) Inquiry may be made in person at the agency during business hours or submitting a request for information in writing to the Planning Director, Planning Department, Kapule Building, 4444 Rice Street, Suite A473, Lihue, Hawaii 96766-1326

1-3-3 Copies of Public Records. Copies of public records printed or reproduced for persons other than governmental agencies shall be given to any person provided the applicable fees or costs for publication, research, and postage are paid.

1-3-4 Denial of Inspection. Any person aggrieved by the denial by the officer having custody of any public record of the right to inspect the record or to obtain copies of extracts thereof may seek enforcement action pursuant to HRS Chapter 92.

### **Chapter IV Rule Adoption, Amendment, or Repeal Procedures**

#### 1-4-1 Initiation of Rule-Making Proceedings.

- (a) Motion by Commission. The Commission may, at time on its own motion, initiate proceeding for the adoption, amendment, or repeal of any rule or regulation of the Commission.
- (b) Petition by person or Agency. Any interested person may petition the Commission for the adoption, amendment, or repeal of any rule or regulation of the Commission. Petitions for rule making filed with the Commission will become matters of public record.

1-4-2 Form and Contents. Petitions for rule making shall contain the name, address, and telephone number of each petitioner; the signature of each petitioner; a draft of the substance of the proposed rule or a designation of the provisions the repeal of which is desired; a statement of the petitioner's interest in the subject matter; a statement of the reasons in support of the

proposed rule, amendment, or repeal and shall deposit with the County funds sufficient to cover appropriate meeting publication costs.

1-4-3 Action on Petition. The Commission shall, within thirty (30) days after the filing of a petition for rule making, either deny the petition in writing, stating its reasons for denial or initiate proceedings in accordance with Section 91-3 HRS.

(a) Denial of Petition. Any petition that fails in material respect to comply with the requirements herein of that fails to disclose sufficient reasons to justify the institution of public rule-making proceedings will not be considered by the Commission. The Commission shall notify the petitioner in writing of such denial, stating the reasons thereto. Denial of a petition shall not operate to prevent the Commission from acting, on its own motion, on any matter disclosed in the petition.

(b) Acceptance of Petition. If the Commission determines that the petition is in order and that it discloses sufficient reasons in support of the proposed rule-making to justify the institution of rule-making proceedings, the following procedure set forth and applicable statutes and law shall apply.

1-4-4 Notice of public Hearing to discuss Rule Adoption, Amendment, or Repeal.

(a) Publication and mailing. When, pursuant to a petition therefore or upon its own motion, the Commission proposes to adopt, amend, or repeal a rule or regulation, a notice or proposed rulemaking shall be published at least once in a newspaper of general circulation which is published and issued within the County of Kauai; and such notice shall also be mailed to all persons or agencies who have made timely written requests for advance notice of the Commission's rulemaking proceedings at their last recorded address. The notices shall be published at least thirty (30) days prior to the date set for public hearing.

(b) Form. A notice of the proposed adoption, amendment, or repeal of a rule or regulation shall include the requirements set forth in HRS Chapter 91-3.

1-4-5 Commission Action. The Commission shall consider all relevant testimony and documents of record before taking final action in a rule-making proceeding. Final action should be taken within forty-five (45) days after the end of period for submission of written comments or recommendations.

1-4-6 Effective Date. All rules shall be filed and take effect pursuant to HRS 91-4.

1-4-7 Emergency Rule Making. Notwithstanding the foregoing rules, the Commission may adopt emergency rules in accordance to the provision of HRS 91-3 and 4 if the Commission finds that an imminent peril to public health or safety requires adoption, amendment, or repeal of a rule or regulation upon less than thirty (30) days' notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule or regulation to be effective

for a period not longer than one hundred twenty (120) days without renewal. The emergency rule shall become effective upon filing with the County Clerk.