



If you have any questions regarding the matters discussed in this article, please contact the following attorney

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RECORDING FOREIGN JUDGMENTS IN HAWAII

A foreign judgment must first be filed with the appropriate Hawaii court, pursuant to Hawaii Revised Statute, Chapter 636C, before it may be recorded. After the foreign judgment has been so filed, and before it is recorded against real property in Hawaii, it is critical to determine: (i) whether the property is recorded in the “regular system” or the “land court” system, and (ii) how title to the property is held. If the property is in the regular system, the judgment must be certified, contain a description of the property, and be recorded with the Bureau of Conveyances of the State of Hawaii in order to create a judgment lien against the property. If the property is in the land court system, the judgment must be certified, contain a proper description of the property, as well as other information such as the transfer certificate of title number, and be filed with the Office of the Assistant Registrar of the Land Court of the State of Hawaii. Recordation of a judgment in the Bureau of Conveyances alone will not establish a judgment lien against property in the land court system. Occasionally, a judgment may affect several properties, some of which are in the land court system and others of which are in the regular system. In that case, the requirements of both systems must be met.

In addition, the creditor will want to determine how title is held to the property. In Hawaii, married couples conventionally can hold title to property either as “tenants by the entirety” or “tenants in common”. If property is held by a married couple as tenants by the entirety, a judgment creditor with a judgment against only one spouse cannot reach that property. If property is held as tenants in common, the judgment creditor with a judgment against only one spouse could recover against the judgment debtor’s interest in the subject property.

In our representation of creditors holding foreign judgments, we generally recommend ordering a “property” search to identify real property owned by the judgment debtor in the state. Depending upon the amount of the judgment, we may also recommend ordering a title report on each of the debtor’s



properties to identify the correct owner of each property, the correct property description, how title to the property is held, and the mortgages, liens, and other encumbrances, that have been recorded against the properties.

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