

JAN 25 2010

A BILL FOR AN ACT

RELATING TO UNCLAIMED PROPERTY.

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

1 SECTION 1. Section 523A-9, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Except for property held in a safe deposit box or
4 other safekeeping depository, [~~within six months after the final~~
5 ~~date for~~] upon filing the report required by section 523A-8, the
6 holder of property presumed abandoned shall pay, deliver, or
7 cause to be paid or delivered to the administrator the property
8 described in the report as unclaimed, but if the property is an
9 automatically renewable deposit, and a penalty or forfeiture in
10 the payment of interest would result, the time for compliance
11 shall be extended until a penalty or forfeiture would no longer
12 result. Tangible property held in a safe deposit box or other
13 safekeeping depository shall not be delivered to the
14 administrator until an additional one hundred twenty days after
15 the time for payment or delivery to the administrator of
16 property presumed abandoned as required by this subsection."

17 SECTION 2. Section 523A-15, Hawaii Revised Statutes, is
18 amended to read as follows:

1 " ~~[†]~~ §523A-15 ~~[‡]~~ Filing claim with administrator; handling
2 of claims by administrator. (a) A person, excluding another
3 state, claiming property paid or delivered to the administrator
4 may file a claim on a form prescribed by the administrator and
5 verified by the claimant.

6 ~~[(b) Within one hundred twenty days after a claim is
7 filed, the administrator shall allow or deny the claim and give
8 written notice of the decision to the claimant. If the claim is
9 denied, the administrator shall inform the claimant of the
10 reasons for the denial and specify what additional evidence is
11 required before the claim will be allowed. The claimant may
12 then file a new claim with the administrator or maintain an
13 action under section 523A-16.~~

14 ~~(c) Within thirty days after a claim is allowed, the
15 property or the net proceeds of a sale of the property shall be
16 delivered or paid by the administrator to the claimant, together
17 with any dividend, interest, or other increment to which the
18 claimant is entitled under sections 523A-12 and 523A-13.~~

19 ~~(d)]~~ (b) A holder who pays the owner for property that has
20 been delivered to the State and which, if claimed from the
21 administrator by the owner would be subject to an increment

1 under sections 523A-12 and 523A-13, may recover from the
2 administrator the amount of the increment."

3 SECTION 3. Section 523A-16, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " ~~[†]~~§523A-16 ~~[†]~~ **Action to establish claim.** A person,
6 excluding another state, aggrieved by a decision of the
7 administrator or whose claim has not been acted upon ~~[within one~~
8 ~~hundred twenty days after its filing]~~ may maintain an original
9 action to establish the claim in the circuit court, naming the
10 administrator as a defendant. If the aggrieved person
11 establishes the claim in an action against the administrator,
12 the court may award the claimant reasonable attorney's fees.

13 SECTION 4. Section 560:3-1210, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§560:3-1210 Undistributed proceeds or balances,**
16 **disposition.** When any balance remains in the hands of the
17 clerk, after payment in the order specified in section 560:3-
18 805, and no heirs or devisees of the decedent, entitled to the
19 balance, can be located after reasonable search and inquiry, the
20 clerk, after the expiration of one year after the first
21 publication, shall report the fact to the court, which shall
22 forthwith enter an order forwarding such property to the state

1 director of finance, and the clerk thereupon shall immediately
2 deposit the money or funds, or any balance, with the director
3 for disposition as provided in chapter 523A. The director at
4 any time may authorize the payment out of the ~~general~~ trust
5 funds of the State of any amount so forwarded to any person who
6 establishes to the satisfaction of the director that the person
7 is legally entitled thereto as an heir or devisee of the
8 decedent, and the person shall be entitled to receive the amount
9 thereof out of any moneys in the treasury not otherwise
10 appropriated, upon warrant drawn by the state comptroller."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect on July 1, 2010.

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INTRODUCED BY: _____

~~_____~~
BY REQUEST

Report Title:

Unclaimed Property Program

Description:

Requires holders of unclaimed property to remit all property with their November 1 report and deletes reference to a specific number of days in which claims must be acted upon; also makes a technical correction by referencing the Unclaimed Property Trust Fund.

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY.

PURPOSE: To require holders of unclaimed property to remit all property with their November 1 report and delete reference to a specific number of days in which claims must be acted upon; also makes a technical correction by referencing the Unclaimed Property Trust Fund.

MEANS: Amend sections 523A-9(a), 523A-15, 523A-16, and 560:3-1210, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Section 523A-9, HRS, currently requires reporters of unclaimed property to report property by November 1 and remit no later than May 1. Hawaii's law is inconsistent with other states' reporting requirements, causing confusion on the part of the reporting companies.

Currently, financial institutions cease paying interest on interest bearing accounts when these accounts are closed for the purposes of reporting them to the State. The State pays interest on interest bearing property from the date it is remitted until the property is claimed for a maximum of 10 years. Changing the remittance date will reduce the existing gap in interest payments between when financial institutions close unclaimed accounts and when accounts are remitted to the State.

Sections 523A-15 and 523A-16, HRS, provide for claims to be allowed or denied within 120 days. Due to the volume of claims and complexity of claim evaluation, it is anticipated that staff will not be able to evaluate all claims in this timeframe due to

the current budget deficit and the anticipated reduction of five staff members in the Unclaimed Property Program on July 1, 2010.

Impact on the public: There will be a positive impact on the public in regards to changing the unclaimed property remittance date. Due to the difference in reporting and remittance deadlines, there is sometimes confusion as to who is holding the unclaimed property, especially when property may be reported in the State's annual notice to the public before it is actually received from the financial institution. Moreover, this change will enable the public to earn interest on their property sooner by reducing the time between when the account is closed by a financial institution and when the State receives the property.

By eliminating the deadline for the approval of claims, there may be a longer wait for the public, depending on the staffing level of the Unclaimed Property Program.

Impact on the department and other agencies: The elimination of a separate remitting deadline would reduce staff workload. Staff currently must refer the public to the holders of the unclaimed property that has not yet been remitted to the State.

GENERAL FUND: None.

OTHER FUNDS: Unclaimed Property Trust Fund receipts would increase in October and November.

PPBS PROGRAM DESIGNATION: BUF-115.

OTHER AFFECTED AGENCIES: Department of Education, Department of Public Safety, and the Judiciary.

EFFECTIVE DATE: July 1, 2010.