

S.B. NO. 2748

JAN 25 2012

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-25, Hawaii Revised Statutes, is
18 amended by amending subsections (d) and (e) to read as follows:

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1 "(d) An agreement covered by this section which provides
2 for compensation that [~~is unconseionable~~] exceeds ten per cent
3 shall be unenforceable except by the owner. [~~An owner who has~~
4 ~~agreed to pay compensation that is unconseionable, or the~~
5 ~~administrator on behalf of the owner, may maintain an action to~~
6 ~~reduce the compensation to a conseionable amount. The court may~~
7 ~~award reasonable attorney's fees to an owner who prevails in the~~
8 ~~action.]~~

9 (e) This section does not preclude an owner from asserting
10 that an agreement covered by this section is invalid on grounds
11 [~~other than unconseionable~~] of excessive or unjust
12 compensation."

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

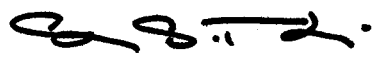
15 "**§560:3-1210 Undistributed proceeds or balances,**
16 **disposition.** When any balance remains in the hands of the
17 clerk, after payment in the order specified in section 560:3-
18 805, and no heirs or devisees of the decedent, entitled to the
19 balance, can be located after reasonable search 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

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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 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect on July 1, 2012.

14
15 INTRODUCED BY: 

16 BY REQUEST

17

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Report Title:

Unclaimed Property

Description:

Requires holders of unclaimed property to remit all property with their November 1 report and corrects references to the Unclaimed Property Trust Fund.

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

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JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

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

PURPOSE: To amend the following statutory provisions: sections 523A-9 and 25, Hawaii Revised Statutes (HRS). This will: (1) require holders of unclaimed property to remit all property with their November 1 report, aligning Hawaii's reporting and remitting requirements with the majority of other states and (2) specify the percentage professional locators are allowed to charge for their services. To amend section 560:3-1210, HRS: to correct reference to the Unclaimed Property Trust Fund.

MEANS: Amend sections 523A-9(a), 523A-25(d) and (e), and 560:3-1210, HRS.

JUSTIFICATION: Section 523A-9 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.

Financial institutions cease paying interest on interest bearing accounts when such accounts are closed on June 30 in order to report this property to the State. The State will pay interest on interest bearing property from the date it is remitted until the property is claimed for a maximum of 10 years.

Section 523A-25: currently does not allow an unconscionable fee to be charged, a specific percentage would be better

understood by the public. The majority of other states allow a range of fees from 10-20 per cent.

Impact on the public: Section 523A-9: there would be a positive impact on the public as they would be able to file all claims with the State's unclaimed property program. Currently, the annual notice sometimes causes confusion as to who has the property. Claims for interest bearing accounts reported after July 1, 2009, will enable the public to earn interest from the date the property is received by the State until it is returned to the rightful owner.

Section 523A-25: there would be a positive impact to the public as the term unconscionable is not defined.

Impact on the department and other agencies:

Section 523A-9: the elimination of a separate remitting cycle would reduce the workload of staff. 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:

Section 523A-9: trust fund receipts would increase in October and November, but an increased volume of claims would be experienced after the annual publication of owners' names.

PPBS PROGRAM
DESIGNATION:

BUF 115.

OTHER AFFECTED
AGENCIES:

Section 523A-9: agencies that report unclaimed property.

EFFECTIVE DATE:

July 1, 2012.