

JAN 18 2013

A BILL FOR AN ACT

RELATING TO DIGITAL MEDIA.

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

1 SECTION 1. Chapter 489J, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§489J- Contracts for digital media accounts; prohibited
5 provisions. (a) This section shall apply to all contracts
6 entered into, modified, or renewed on or after July 1, 2013. No
7 contract shall prohibit, limit, or restrict the transfer of a
8 person's digital media account, upon that person's death, to any
9 devisee or devisees designated by the person's will, or, if
10 none, to any heir or heirs of the person pursuant to the
11 statutes of intestate succession.

12 (b) For the purposes of this section, "digital media
13 account" shall have the same meaning as defined in section
14 560:2-B."

15 SECTION 2. Chapter 560, Hawaii Revised Statutes, is
16 amended by adding a new part to article II to be appropriately
17 designated and to read as follows:



1 "PART

2 SUCCESSION OF DIGITAL MEDIA

3 §560:2-A Applicability. This part is applicable to all
4 contracts entered into, renewed, or modified on or after July 1,
5 2013.

6 §560:2-B Definitions. For the purposes of this part,
7 "digital media account" means any account established for the
8 purpose of playing, downloading, storing, or organizing digital
9 media including music, video, photographs, audiobooks, audio
10 performances, or games; any account identification and password
11 information necessary to access the account; any digital media
12 content stored electronically under the account; and any use
13 license for any digital media stored electronically under the
14 account.

15 §560:2-C Notice; maintenance of digital media account.

16 Upon receipt of proof of death as provided under section 560:1-
17 107 from the personal representative of a decedent's estate
18 within days of the decedent's death, a person or entity
19 shall not terminate any digital media account maintained by the
20 person or entity for the decedent, or destroy or dispose of any
21 digital media content of the decedent stored electronically by
22 the person or entity, except in the case of a violation of any



1 contract provision that would have otherwise applied to the
2 decedent.

3 **§560:2-D Access to decedents' digital media account.** To
4 obtain the identification and password information necessary to
5 access a digital media account held at the time of death by the
6 decedent, the personal representative of the estate shall
7 provide any person or entity with whom the decedent held the
8 digital media account with:

9 (1) A written request for the identification and password
10 information necessary for such access, accompanied by
11 proof of death as provided under section 560:1-107,
12 and a certified copy of appointment as personal
13 representative of the estate; or

14 (2) An order of a court having probate jurisdiction over
15 the decedent's estate.

16 Upon receipt, the person or entity shall provide the personal
17 representative with the identification and password information
18 necessary to access the digital media account of the decedent.
19 The personal representative shall transfer such information to
20 the decedent's devisee or devisees as determined by will, or, if
21 none, the heir or heirs as determined by the statutes of
22 intestate succession.



1 §560:2-E Descent of digital media account. (a) Any
 2 digital media account of a decedent shall pass to the devisee or
 3 devisees designated by the decedent's will, or, if none, shall
 4 descend and be divided among the decedent's heir or heirs in
 5 accordance with the statutes of intestate succession.

6 (b) Any devisee or heir inheriting any part of a digital
 7 media account shall be subject to the same terms and conditions
 8 as were applicable to the decedent at the time of death."

9 SECTION 3. This Act does not affect rights and duties that
 10 matured, penalties that were incurred, and proceedings that were
 11 begun before July 1, 2013.

12 SECTION 4. In codifying the new sections added by section
 13 2 of this Act, the revisor of statutes shall substitute
 14 appropriate section numbers for the letters used in designating
 15 the new sections in this Act.

16 SECTION 5. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on July 1, 2013.

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INTRODUCED BY:

[Handwritten signatures: "The Honorable" and "Jim"]

[Handwritten signature: "Sen. Keith Gray"]

[Handwritten signature: "Ronald de Bevoise"]

[Handwritten signature: "J. William Goh"]

[Handwritten signature: "John"]



Report Title:

Contracts; Digital Media; Uniform Probate Code

Description:

Defines digital media account. Prohibits contracts that prohibit, limit, or restrict the transfer of a digital media account upon the account holder's death, and provides for the transfer of a decedent's digital media account to a devisee or heir. Effective July 1, 2013.

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