

CHAPTER 531
PROBATE: JURISDICTION AND PROCEDURE

Part I. Estates of Decedents Generally

Section

- 531-1 to 14 Repealed
- 531-15 Determination of bar to dower or curtesy
- 531-16 to 19 Repealed
- 531-20 Banks, fiduciaries to disclose property of decedents,
when; penalty
- 531-21 to 28 Repealed
- 531-28.5 Petition to sell real property
- 531-29 Confirmation of sales of real property by personal
representatives or guardians
- 531-30 to 32 Repealed
- 531-33 Procedure to dispose of unclaimed personalty
- 531-34 Repealed

Part II. Personal Estates of Persons Affected with
Leprosy

- 531-41 to 45 Repealed

Part III. Unadministered Small Estates; Estates in
Coroner's Charge--Repealed

- 531-51 to 61 Repealed

Part IV. Estates less than \$100; Distribution without
Administration--Repealed

- 531-71, 72 Repealed

Cross References

Uniform Probate Code, see chapter 560.

Rules of Court

See Hawaii Probate Rules.

"PART I. ESTATES OF DECEDENTS GENERALLY

§§531-1 to 10 REPEALED. L 1976, c 200, pt of §1.

" **§531-11 REPEALED.** L 1975, c 123, §1.

" **§§531-12 to 14 REPEALED.** L 1976, c 200, pt of §1.

" **§531-15 Determination of bar to dower or curtesy.** The bar to dower and curtesy or to rights by way of dower or curtesy provided by the second paragraph of sections 533-9 and 533-16, respectively, shall not operate except upon determination by order of a court of probate in proceedings for the administration of the estate, or by a court in proceedings for the determination of heirs, of the deceased spouse, and then only if claim of bar is made by a person claiming the estate, or any part thereof, or any interest therein. The spouse sought to be barred shall be notified of the claim and of the hearing thereon either by personal service or by publication of the notice thereof, in the manner provided for, and which may be included in, notice of determination of heirs or devisees or by both such personal and published service, as the court may direct. The order of determination shall be conclusive as to the rights of the surviving spouse, subject only to be reversed, set aside or modified on appeal. A certified copy of the order shall be recorded in the bureau of conveyances, in case the title to land is involved, and if the land affected has been registered in the land court, a like copy shall be filed in the office of the assistant registrar of the court unless the interest of the deceased spouse in such land consists solely of one or more leasehold time share interests as described in section 501-20. [L 1945, c 212, §3; RL 1955, §317-15; HRS §531-15; am L 1972, c 108, §1(a), (c); am L 1998, c 219, §13]

" **§§531-16 to 19 REPEALED.** L 1976, c 200, pt of §1.

" **§531-20 Banks, fiduciaries to disclose property of decedents, when; penalty.** Every banking house, fiduciary company, agent, or trustee, as soon as practicable after the

receipt of a written statement, verified by the oath of the person making the same, showing: the death of a person for whom such fiduciary holds property; that the person making the statement is a kinsman of the deceased, together with the relationship which existed; and that the person claims to be an heir of the deceased; shall disclose to the person making the statement the nature and kind of property so held.

Any fiduciary company, agent, or trustee, refusing so to disclose the nature and kind of property so held, shall be fined not more than \$500. [L 1915, c 11, §§1-2; RL 1925, §2486; RL 1935, §4782; RL 1945, §12019; RL 1955, §317-20; HRS §531-20]

" **§§531-21 to 28 REPEALED.** L 1976, c 200, pt of §1.

" **§531-28.5 Petition to sell real property.** If required by the decedent's will or if demanded by a devisee in a testate probate proceeding or by an heir in an intestate probate proceeding, the personal representative or guardian shall present to the court having jurisdiction of the estate a petition setting forth the condition of the estate, and the facts and circumstances tending to show the necessity or expediency of the sale of real property. If it appears to the court either that it is necessary or that it would be advisable and for the benefit of the estate that the real property or any part thereof be sold, and that sufficient notice of the proposed sale has been given to interested persons as defined in section 560:1-201, the court may authorize the personal representative or guardian to sell the real property either at private sale or at public auction on such terms as the court shall order. [L 1980, c 260, §2; am L 1996, c 288, §2; am L 1997, c 244, §14]

Rules of Court

Sale of real property, see Hawaii Probate Rules, part B(VI).

" **§531-29 Confirmation of sales of real property by personal representatives or guardians.** If required by the decedent's will or if demanded by a devisee in a testate probate proceeding or by an heir in an intestate probate proceeding, the personal representative or the guardian selling real property of the estate shall obtain from the court an order of confirmation of the sale before making conveyance of the real property sold. The order confirming the sale shall be given upon affirmative proof that the selling price was a fair and just price for the property sold and that the sale complied with the order of the court authorizing the sale.

If a sale being presented to the court for confirmation is a private sale, the court shall require a notice of the sale to be posted in an appropriate place in the courthouse of the circuit wherein the matter is pending and also of the circuit wherein the property is located, if they are different, at least fifteen days prior to considering the confirmation, the notice to set forth a description of the property, including the tax key number, the proposed sale price including the terms of payment, a description of any encumbrances thereon, the date of the confirmation hearing and a solicitation for sealed bids thereon or any other information required by the court. The court may also require that the notice be published at least twice in a newspaper in the circuit where the property is located, the last publication to be at least fifteen days prior to considering the confirmation. If a written offer in an amount at least ten per cent more on the first \$10,000 of the selling price and five per cent more on the amount of the selling price in excess of \$10,000 is made to the court by a responsible person, who may be the original offeror, prior to the hour scheduled for the hearing of confirmation, the court upon the hearing of confirmation, shall permit the original and subsequent offerors to make a further offer, and if any new offer shall be in an amount at least five per cent more than the highest written offer made to the court, then the court shall, in such manner as it shall determine, permit the original and subsequent offerors to make additional higher offers and shall confirm the sale to the one making the highest offer acceptable to the estate finally received.

Upon the confirmation of any sale, the court may fix the compensation for the services to the estate of the personal representative or guardian, the personal representative's or guardian's attorney, or real estate agent securing the original offeror. In case of a sale on an increased bid made at the time of confirmation to a purchaser other than the original offeror, the court shall also fix the compensation payable by the estate to the agent, if any, producing the successful bidder, but the total compensation payable by the estate in that case shall not exceed the amount of the commission payable on the amount for which the sale is confirmed. [L 1911, c 121, §3; RL 1925, §2495; am L 1935, c 55, §1; RL 1935, §4791; RL 1945, §12028; am L 1945, c 122, §3; RL 1955, §317-29; am L 1957, c 258, §2; am L 1959, c 130, §§1, 2; HRS §531-29; am L 1972, c 108, §1(a), (f); am L 1976, c 200, pt of §1; am L 1980, c 260, §1; am L 1981, c 82, §31; gen ch 1985; am L 1996, c 288, §3]

Rules of Court

Confirmation of sale, see HPR rules 69 to 72.

Case Notes

Administrator may not become purchaser of intestate's property. 1 H. 266 (476) (single justice).

Procedure for confirmation of private sale, prescribed by this section, applicable though sale directed by will and covered by §531-30. 45 H. 199, 364 P.2d 635.

Whether sale under power contained in will requires confirmation if made by testamentary trustee, raised but not decided. 45 H. 199, 203, 364 P.2d 635.

" **§§531-30 to 32 REPEALED.** L 1976, c 200, pt of §1.

" **§531-33 Procedure to dispose of unclaimed personalty.**

Whenever the personal representative of an estate is unable to discover any living heirs or legatees of the decedent, the personal representative shall give notice to all heirs or legatees by publication in such newspaper or newspapers and for such time as the court or registrar may direct, but not less than once a week for three successive weeks, of the date of the hearing upon the personal representative's final accounts or the date on which the personal representative's closing statement will be approved if no objection is filed, which notice shall direct all claimants of a distributive share in the estate of the decedent to appear and present their claims at the hearing or in writing prior to the date on which the closing statement will be approved if no objection is filed; provided that the time allowed for presentation of claims shall be not less than ninety days after the first publication of the notice.

If no claims are presented within the prescribed time, or if such claims as may be allowed do not exhaust the personalty of the estate, any personal estate remaining after the settlement and approval of the final accounts of the personal representative, and the payment of such distributive shares as may be allowed by the court or registrar shall upon order of the court be transferred to the state director of finance by the personal representative.

The director shall cause to be sold at public auction all such personalty as is so transferred, except cash or bonds of the State.

The personal estate shall be disposed of as provided in chapter 523A. [L 1925, c 190, §§1, 2, 3, 4; RL 1935, §4235; RL 1945, §12031; RL 1955, §317-32; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §531-33; am L 1974, c 75, §10; am L 1976, c

200, pt of §1; am L 1977, c 144, §60; am L 1979, c 105, §50; am L 1985, c 68, §23]

" **§531-34 REPEALED.** L 1996, c 288, §8.

**"PART II. PERSONAL ESTATES OF PERSONS
AFFECTED WITH LEPROSY**

§§531-41 to 45 REPEALED. L 1971, c 33, §2.

**"PART III. UNADMINISTERED SMALL ESTATES;
ESTATES IN CORONER'S CHARGE--REPEALED**

§§531-51 to 61 REPEALED. L 1976, c 200, pt of §1.

Cross References

For present provisions, see §§560:3-1201 to 560:3-1215.

**"PART IV. ESTATES LESS THAN \$100; DISTRIBUTION
WITHOUT ADMINISTRATION--REPEALED**

§§531-71, 72 REPEALED. L 1976, c 200, pt of §1.

Cross References

For present provisions, see §§560:3-1201 to 560:3-1215.