

[CHAPTER 572C]
RECIPROCAL BENEFICIARIES

Section

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Note

L 2012, c 267, §§16 and 17 provide:

"SECTION 16. [*Section retroactive to October 3, 2011. L 2012, c 267, §20(1).*] If two individuals terminated a reciprocal beneficiary relationship on or after October 3, 2011, but before the date this Act became law upon its approval [*Act effective retroactive to January 1, 2012, and approved July 6, 2012*], and the two individuals subsequently enter or entered into a civil union no later than ninety days after their reciprocal beneficiary relationship terminated, their reciprocal beneficiary relationship shall be deemed to continue uninterrupted until the civil union is or was solemnized. The couple shall suffer no loss or interruption of any rights, benefits, protections, or obligations derived from their reciprocal beneficiary relationship, and those rights, benefits, protections, or obligations shall be deemed to have accrued as of the first date they existed under the beneficiary relationship, if they meet the requirements of this section.

For purposes of this section, holding title to property as tenants by the entirety shall be included among the rights of a reciprocal beneficiary relationship that shall continue uninterrupted under this section; provided that no intervening liens were perfected and attached on the property after the reciprocal beneficiary relationship was terminated, and before the date this Act became law upon its approval [*Act effective retroactive to January 1, 2012, and approved July 6, 2012*].

SECTION 17. Notwithstanding subsection 572C-7(c), Hawaii Revised Statutes, if before the effective date of this section [*retroactive to January 1, 2012*], two individuals entered into a valid legal union in another jurisdiction that is not a marriage recognized under chapter 572, Hawaii Revised Statutes, and is substantially equivalent to a civil union under chapter 572B, Hawaii Revised Statutes, and are also parties to a reciprocal beneficiary relationship in this State, the reciprocal beneficiary relationship shall terminate and their valid legal union entered into in another jurisdiction shall be recognized as a civil union under section 572B-10, Hawaii Revised Statutes, on the voluntary termination of the reciprocal beneficiary relationship under subsection 572C-7(a), Hawaii Revised Statutes, but no later than one year after the date this Act becomes law upon its approval [*Act effective retroactive to January 1, 2012, and approved July 6, 2012*]."

Civil union or reciprocal beneficiary relationship in existence before December 2, 2013 not invalidated by L Sp 2013 2d, c 1. L Sp 2013, c 1, §11.

Cross References

Continuity of rights; civil union and reciprocal beneficiary relationships, see §572-1.7.

Law Journals and Reviews

Hawaii's Loss of Consortium Doctrine: Our Substantive, Relational Interest Focus. VII HBJ No. 13, at pg. 59.

The Hawai'i Marriage Amendment: Its Origins, Meaning and Fate. 22 UH L. Rev. 19.

The Recognition of Same-Sex Relationships: Comparative Institutional Analysis, Contested Social Goals, and Strategic Institutional Choice. 28 UH L. Rev. 23 (2005).

Extending Loss of Consortium to Reciprocal Beneficiaries: Breaking the Illogical Boundary Between Severe Injury and Death in Hawai'i Tort Law. 28 UH L. Rev. 429 (2006).

Tax Justice and Same-Sex Domestic Partner Health Benefits: An Analysis of the Tax Equity For Health Plan Beneficiaries Act. 32 UH L. Rev. 73 (2009).

Baehr v. Lewin and the Long Road to Marriage Equality. 33 UH L. Rev. 705 (2011).

" **[§572C-1] Purpose.** The purpose of this chapter is to extend certain rights and benefits which are presently available only to married couples to couples composed of two individuals who are legally prohibited from marrying under state law. [L 1997, c 383, pt of §1]

" **§572C-2 Findings.** The legislature acknowledges that there are many individuals who have significant personal, emotional, and economic relationships with another individual yet are prohibited by legal restrictions from marrying. For example, two individuals who are related to one another, such as a widowed mother and her unmarried son. Therefore, the legislature believes that certain rights and benefits presently available only to married couples should be made available to couples comprised of two individuals who are legally prohibited from marrying one another. [L 1997, c 383, pt of §1; am L Sp 2013 2d, c 1, §9]

" **[§572C-3] Definitions.** For the purposes of this chapter:

"Declaration of reciprocal beneficiary relationship" means a statement in a form issued by the director that declares the intent of two people to enter into a relationship. By signing it, two people swear under penalty of perjury that they meet the requirements for a valid reciprocal beneficiary relationship.

"Director" means the director of health.

"Reciprocal beneficiaries" means two adults who are parties to a valid reciprocal beneficiary relationship and meet the requisites for a valid reciprocal beneficiary relationship as defined in section 572C-4. [L 1997, c 383, pt of §1]

" **§572C-4 Requisites of a valid reciprocal beneficiary relationship.** In order to enter into a valid reciprocal beneficiary relationship, it shall be necessary that:

- (1) Each of the parties be at least eighteen years old;
- (2) Neither of the parties be married, a party to another reciprocal beneficiary relationship, or a partner in a civil union;
- (3) The parties be legally prohibited from marrying one another under chapter 572;
- (4) Consent of either party to the reciprocal beneficiary relationship has not been obtained by force, duress, or fraud; and
- (5) Each of the parties sign a declaration of reciprocal beneficiary relationship as provided in section 572C-5. [L 1997, c 383, pt of §1; am L 2012, c 267, §11]

Note

The 2012 amendment is retroactive to January 1, 2012. L 2012, c 267, §20.

" **[§572C-5] Registration as reciprocal beneficiaries; filing fees; records.** (a) Two persons, who meet the criteria set out in section 572C-4, may enter into a reciprocal beneficiary relationship and register their relationship as reciprocal beneficiaries by filing a signed notarized declaration of reciprocal beneficiary relationship with the director. For the filing of the declaration, the director shall collect a fee of \$8, which shall be remitted to the director of finance for deposit into the general fund.

(b) Upon the payment of the fee, the director shall register the declaration and provide a certificate of reciprocal beneficiary relationship to each party named on the declaration. The director shall maintain a record of each declaration of reciprocal beneficiary relationship filed with or issued by the director. [L 1997, c 383, pt of §1]

" **[§572C-6] Rights and obligations.** Upon the issuance of a certificate of reciprocal beneficiary relationship, the parties named in the certificate shall be entitled to those rights and obligations provided by the law to reciprocal beneficiaries. Unless otherwise expressly provided by law, reciprocal beneficiaries shall not have the same rights and obligations under the law that are conferred through marriage under chapter 572. [L 1997, c 383, pt of §1]

Law Journals and Reviews

Tax Justice and Same-Sex Domestic Partner Health Benefits: An Analysis of the Tax Equity For Health Plan Beneficiaries Act. 32 UH L. Rev. 73 (2009).

" **§572C-7 Termination of reciprocal beneficiary relationship; filing fees and records; termination upon marriage.** (a) Either party to a reciprocal beneficiary relationship may terminate the relationship by filing a signed notarized declaration of termination of reciprocal beneficiary relationship by either of the reciprocal beneficiaries with the director. For the filing of the declaration, the director shall collect a fee of \$8, which shall be remitted to the director of finance for deposit into the general fund.

(b) Upon the payment of the fee, the director shall file the declaration and issue a certificate of termination of reciprocal beneficiary relationship to each party of the former relationship. The director shall maintain a record of each declaration and certificate of termination of reciprocal beneficiary relationship filed with or issued by the director.

(c) A reciprocal beneficiary relationship shall automatically terminate when:

- (1) Either party to the reciprocal beneficiary relationship enters into a marriage or civil union solemnized by a person licensed by the department of health; or
- (2) Either party to the reciprocal beneficiary relationship enters into a union outside the State that is recognized by law as a marriage or civil union in the State.

(d) If either party to a reciprocal beneficiary relationship enters into a legal marriage or civil union, the parties shall no longer have a reciprocal beneficiary relationship and shall no longer be entitled to the rights and benefits of reciprocal beneficiaries, except as provided in

section 572B-4.5. [L 1997, c 383, pt of §1; am L 2012, c 267, §12]

Note

The 2012 amendment is retroactive to January 1, 2012. L 2012, c 267, §20.