

CHAPTER 665
ESCHEAT

Part I. Land

Section

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Note

As to procedural statutes superseded by the rules of court, see note preceding Title 32.

Rules of Court

Applicability of Hawaii Rules of Civil Procedure, see HRCP rule 81(b)(5).

"PART I. LAND

§665-1 Information, hearing, decree. In all cases where real property escheats by law to the State, the attorney general shall file an information in the circuit court of the first circuit, setting forth the facts upon which the claim of the State to the escheat is based. Summons shall be issued as in other actions. The attorney general shall cause the summons to be served upon any person in possession of the property, and shall also cause a copy thereof to be published once a month for three months in a newspaper of general circulation in the State. Upon the hearing of the matter, if the court finds the facts averred in the information substantiated by proof and sufficient in law, it shall make and cause to be entered a decree declaring the property an escheat to the State. [L 1886, c 8, §1; RL 1925, §2913; RL 1935, §4230; RL 1945, §10241; RL 1955, §235-1; HRS §665-1; am L 1972, c 90, §7(a)]

Cross References

Publication of notice, see §601-13.

Case Notes

Appellate court erred in concluding that the State's escheat claim did not trigger defendant title insurance company's duty to defend plaintiffs because the State failed to follow the proper procedure for bringing an escheat claim under this section; by so concluding, the appellate court improperly tied defendant's duty to defend to the sufficiency or merits of the State's pleading. 126 H. 448, 272 P.3d 1215 (2012).

" **§665-2 Conclusive presumptions.** In all actions provided for in section 665-1, the following shall be conclusive presumptions of fact:

- (1) That the person who last owned the property has died intestate, if it is shown that the owner has been

absent from the State and not been heard of for the space of fifteen years, and has neither in person nor through any agent thereto authorized in writing, nor through any tenant occupying the premises in question under a valid lease, had possession or exercised dominion over the premises during that time, and that no application for letters testamentary or of administration has been filed in any court within the State having jurisdiction of probate proceedings within such time.

- (2) That the person who last owned the property has left no kindred, if it is shown that no person claiming to be kin has made claim to the property within five years after the lapse of the fifteen years in this section before mentioned. [L 1886, c 8, §2; RL 1925, §2914; RL 1935, §4231; RL 1945, §10242; RL 1955, §235-2; HRS §665-2]

" **§665-3 Defenses.** In such actions no person shall be allowed to defend against the State on the ground of being in possession of the property, unless the person proves that the person is in possession under color of title, or has been in adverse possession thereof for a period not less than twenty years and that the taxes upon the property have been paid by the person during the last twelve years of the period. [L 1886, c 8, §3; am imp L 1898, c 19, §1; RL 1925, §2915; RL 1935, §4232; RL 1945, §10243; RL 1955, §235-3; HRS §665-3; am L 1973, c 26, §3; gen ch 1985]

Case Notes

Cited: 14 H. 365, 366 (1902).

" **§665-4 Sale; disposition of proceeds.** If a decree is entered in favor of the State, the department of land and natural resources shall cause the premises to be sold at public auction, and the proceeds of sale after deducting all costs and expenses shall be deposited in the treasury of the State and there abide the claim of any heir or other person thereto lawfully entitled; provided that no claim to the proceeds shall be allowed unless the claim is made within five years after deposit. [L 1886, c 8, §4; RL 1925, §2916; RL 1935, §4233; RL 1945, §10244; RL 1955, §235-4; am L Sp 1959 2d, c 1, §21; am L 1961, c 132, §1; HRS §665-4]

" **§665-5 Claim to proceeds.** Any person claiming the proceeds of sale of escheated property may present the person's

claim by commencing an action in the circuit court of the first circuit. Service shall be made upon the attorney general who may appear and defend on behalf of the State. If the court renders a judgment in favor of the plaintiff, the director of finance shall pay the proceeds to the plaintiff, with interest as allowed by the court, not to exceed six per cent a year. [L 1886, c 8, §5; RL 1925, §2917; RL 1935, §4234; RL 1945, §10245; RL 1955, §235-5; am L Sp 1959 2d, c 1, §14; am L 1963, c 114, §1; HRS §665-5; am L 1972, c 90, §7(b); gen ch 1985]

"PART II. UNCLAIMED MONEYS--REPEALED

§§665-11 to 665-16 REPEALED. L 1974, c 75, §7.

"PART III. CORPORATE STOCK--REPEALED

§§665-21 to 665-32 REPEALED. L 1974, c 75, §7.