

ACT 6

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H.B. NO. 2818

A Bill for an Act Relating to the Uniform Simultaneous Death Act.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 534A-6, Hawaii Revised Statutes, is amended to read as follows:

“§534A-6 Exceptions. [This chapter does apply if:] Survival by one hundred twenty hours is not required if:

- (1) The governing instrument contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and that language is operable under the facts of the case;
- (2) The governing instrument expressly indicates that an individual is not required to survive an event, including the death of another individual, by any specified period or expressly requires the individual to survive the event for a [stated] specified period; but survival of the event or the specified period must be established by clear and convincing evidence;
- (3) The imposition of a [120-hour] one hundred twenty hour requirement of survival would cause a nonvested property interest or a power of appointment to [be invalid under the rule against perpetuities;] fail to qualify for validity under section 525-1(a)(1), (b)(1), or (c)(1) or to become invalid under section 525-1(a)(2), (b)(2), or (c)(2); but survival must be established by clear and convincing evidence; or
- (4) The application of [this section] a one hundred twenty hour requirement of survival to multiple governing instruments would result in an unintended failure or duplication of a disposition[.]; but survival must be established by clear and convincing evidence.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 12, 1994.)