

ACT 214

S.B. NO. 2821

A Bill for an Act Relating to the Uniform Unclaimed Property Act.

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

SECTION 1. Chapter 523A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§523A- Escheat process. (a) Any property in custody of the State pursuant to this chapter at the close of a fiscal year ending June 30, shall escheat to the State as follows:

- (1) If the value of the property is greater than \$10,000, the property shall escheat six years after the end of the fiscal year in which the property was paid or delivered to the director;
- (2) If the value of the property is greater than \$5,000 but less than or equal to \$10,000, the property shall escheat five years after the end of the fiscal year in which the property was paid or delivered to the director;
- (3) If the value of the property is greater than \$1,000 but less than or equal to \$5,000, the property shall escheat four years after the end of the fiscal year in which the property was paid or delivered to the director;
- (4) If the value of the property is greater than \$100 but less than or equal to \$1000, the property shall escheat three years after the end of the fiscal year in which the property was paid or delivered to the director; and
- (5) If the value of the property is less than or equal to \$100, the property shall escheat two years after the end of the fiscal year in which the property was paid or delivered to the director;

provided that the property for which a timely claim has been filed with the director pursuant to section 523A-24, or a timely action has been filed pursuant to section 523A-26, shall not escheat until the disposition of the claim or action.

(b) The director shall cause a notice to be published no later than April 1 of the fiscal year ending June 30 in which the property shall escheat to the State at least once in a newspaper of general circulation in the State.

(c) The notice shall be entitled, “Notice to Declare Certain Abandoned Property Escheated to the State of Hawaii” and contain:

- (1) A statement that any property presumed abandoned and paid or delivered to the director that remains unclaimed as of June 30 of the year the notice is published and that meets the escheat criteria established in subsection (a)(1), (2), (3), (4), or (5) shall escheat to the State on June 30, and all rights, title, or interest of the owner shall be terminated and all claims of the owner shall be forever barred;
- (2) A statement listing the names of owners of abandoned property with a value greater than \$5,000 scheduled to escheat to the State; and

- (3) A statement identifying the location where a list of names and last known addresses, if any, of persons appearing to be owners of abandoned property subject to escheat on June 30 of the year the notice is published; and stating that this list shall be made available as a government record.

This section shall not apply to sums payable on:

- (1) Travelers checks, money orders and other written instruments presumed abandoned under section 523A-4; or
- (2) Checks, drafts or similar instruments on which a banking or financial organizations is directly liable, including a cashier's check and a certified check presumed abandoned under section 523A-5."

SECTION 2. Section 523A-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Escheat” means the taking of title or interest by the State of property presumed abandoned.”

SECTION 3. Section 523A-17, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

“(d) The report shall be filed before November 1 of each year as of June 30, next preceding[, but the report of any life insurance company shall be filed before May 1 of each year as of December 31 next preceding]. On written request by any person required to file a report, the director may postpone the reporting date.”

SECTION 4. Section 523A-18, Hawaii Revised Statutes, is amended by amending its title and subsections (a) and (b) to read as follows:

“[[§523A-18]] Notice and publication [of lists] of abandoned property. (a) The director shall cause a notice to be published for all properties reported abandoned not later than March 1[, or in the case of property reported by life insurance companies, September 1,] of the year immediately following the report required by section 523A-17 at least once [a week for two consecutive weeks] in a newspaper of general circulation in the [county of this] State [in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this State, the notice shall be published in the county in which the holder of the property has its principal place of business within this State].

(b) The published notice shall be entitled “Notice [of Names of] to Persons Appearing to be Owners of Abandoned Property” and contain:

- (1) The names in alphabetical order and last known address, if any, of persons listed in the report [and entitled to notice within the county as specified in subsection (a);] with property valued greater than \$100;
- (2) A statement identifying the location of a list of names and last known addresses, if any, of persons appearing to be owners of abandoned property and stating that this list shall be made available as a government record;
- [(2)] (3) A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the director; and
- [(3)] (4) A statement that if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before April 20, [or, in the case of

property reported by life insurance companies, before October 20,] the property will be placed not later than May 1, [or in the case of property reported by life insurance companies, not later than November 1,] in the custody of the director and all further claims shall thereafter be directed to the director.”

SECTION 5. Section 523A-24, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The director shall consider each claim within [ninety] one hundred twenty days after it is filed and give written notice to the claimant if the claim is denied in whole or in part. The notice may be given by mailing it to the last address, if any, stated in the claim as the address to which notices are to be sent. If no address for notice is stated in the claim, the notice may be mailed to the last address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either the last address to which notices are to be sent or the address of the claimant.”

SECTION 6. Section 523A-25, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The claim of another state to recover escheated or abandoned property shall be presented in a form prescribed by the director, who shall decide the claim within [ninety] one hundred twenty days after it is presented. The director shall allow the claim if the director determines that the other state is entitled to the abandoned property under subsection (a).”

SECTION 7. Section 523A-26, Hawaii Revised Statutes, is amended to read as follows:

“**[§523A-26]** **Action to establish claim.** A person aggrieved by a decision of the director or whose claim has not been acted upon within [ninety] one hundred twenty days after its filing may bring an action to establish the claim in the circuit court, naming the director as a defendant. The action shall be brought within ninety days after the decision of the director or within one hundred eighty days after the filing of the claim if the director has failed to act on it. If the aggrieved person establishes the claim in an action against the director, the court shall award the aggrieved person costs and reasonable attorney’s fees.”

SECTION 8. Section 523A-56, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) When a report is received from the Comptroller General or other proper officer of the United States, the director shall cause the notice described in subsection (b) to be published not later than [September] May 1 of the year immediately following the report required by section 523A-54, at least once [a week, for two consecutive weeks] in a newspaper of general circulation in the [county of this] State [in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this State, the notice shall be published in the city and county of Honolulu].

(b) The published notice shall contain:

- (1) The names in alphabetical order and last known address, if any, of [persons] any person listed in the report [and entitled to notice within

- the county as specified in subsection (a); and] with property valued greater than \$100;
- (2) A statement identifying the location of a list of names and last known addresses, if any, of persons appearing to be owners of abandoned property; and stating that this list shall be made available as a government record; and
- [(2)] (3) A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the director.’’

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 10. This Act shall take effect on July 1, 1996.

(Approved June 17, 1996.)

Note

1. Edited pursuant to HRS §23G-16.5.