

A Bill for an Act Relating to Public Assistance.

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

SECTION 1. The legislature finds there is a need to clarify the law with respect to the interests of the department of human services when it asserts its claims pursuant to sections 346-15 and 346-37(a), Hawaii Revised Statutes.

The purpose of this Act is to clarify the priority of the department's claims to the estates of recipients pursuant to sections 346-15 and 346-37, Hawaii Revised Statutes, through the collection of personal property by affidavit in part 12 of article III of the Uniform Probate Code, chapter 560, Hawaii Revised Statutes.

SECTION 2. Section 560:3-805, Hawaii Revised Statutes, is amended to read as follows:

“§560:3-805 Classification of claims. (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- (1) Costs and expenses of administration;
- (2) Reasonable funeral expenses[;] including any claim by the department of human services pursuant to section 346-15;
- (3) Debts and taxes with preference under federal law;
- (4) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent[;] and any claim by the department of human services pursuant to section 346-37 for expenses of the last illness of the decedent;
- (5) Debts and taxes with preference under other laws of this State; [and]
- (6) Any other claim against the estate pursuant to section 346-37; and
- ~~[(6)]~~ (7) All other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.”

SECTION 3. Section 560:3-1201, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, chose in action, or other intangible personal property belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing the debt, obligation, stock, chose in action, or other intangible personal property to a person or persons claimed to be the successor or successors of the decedent or to the department of human services where the department has [paid for the decedent's burial pursuant to section 346-15,] a claim against the estate pursuant to section 346-15 or 346-37, upon being presented a death certificate for the decedent and an affidavit made by or on behalf of the claimed successor or successors or the department of human services stating that:

- (1) The gross value of the decedent's estate in this State does not exceed \$60,000; except that any motor vehicles registered in the decedent's name may be transferred regardless of value pursuant to this section;
- (2) No application or petition for the appointment of a personal representative is pending or has been granted in this State; and

- (3) (A) The claimed successor or successors are entitled to the property and explaining the relationship of the claimed successor or successors to the decedent; or
- (B) The department of human services has [paid for the decedent's burial.] a claim against the estate pursuant to section 346-15 or 346-37.

The affidavit of the department of human services shall have priority over any other claim presented pursuant to this section.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 22, 2000.)