

JAN 22 2007

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A BILL FOR AN ACT

RELATING TO UNCLAIMED PROPERTY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. Section 523A-3.5, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§523A-3.5 Escheat process. (a) Any property in custody~~  
4 ~~of the State pursuant to this chapter at the close of a fiscal~~  
5 ~~year ending June 30, shall escheat to the State as follows:~~

6 ~~(1) If the value of the property is greater than \$10,000,~~  
7 ~~the property shall escheat six years after the end of~~  
8 ~~the fiscal year in which the property was paid or~~  
9 ~~delivered to the director;~~

10 ~~(2) If the value of the property is greater than \$5,000~~  
11 ~~but less than or equal to \$10,000, the property shall~~  
12 ~~escheat five years after the end of the fiscal year in~~  
13 ~~which the property was paid or delivered to the~~  
14 ~~director;~~

15 ~~(3) If the value of the property is greater than \$1,000~~  
16 ~~but less than or equal to \$5,000, the property shall~~  
17 ~~escheat four years after the end of the fiscal year in~~

1           ~~which the property was paid or delivered to the~~  
2           ~~director;~~

3           ~~(4) If the value of the property is greater than \$100 but~~  
4           ~~less than or equal to \$1,000, the property shall~~  
5           ~~escheat three years after the end of the fiscal year~~  
6           ~~in which the property was paid or delivered to the~~  
7           ~~director; and~~

8           ~~(5) If the value of the property is less than or equal to~~  
9           ~~\$100, the property shall escheat two years after the~~  
10           ~~end of the fiscal year in which the property was paid~~  
11           ~~or delivered to the director;~~

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

16           ~~(b) The director shall cause notice to be given no later~~  
17           ~~than April 1 of the fiscal year ending June 30 in which the~~  
18           ~~property shall escheat to the State at least once statewide.~~

19           ~~(c) The notice shall be entitled, "Notice to Declare~~  
20           ~~Certain Abandoned Property Escheated to the State of Hawaii" and~~  
21           ~~contain:~~

1 ~~(1) A statement that any property presumed abandoned and~~  
2 ~~paid or delivered to the director that remains~~  
3 ~~unclaimed as of June 30 of the year the notice is~~  
4 ~~given and that meets the escheat criteria established~~  
5 ~~in subsection (a) (1), (2), (3), (4), or (5) shall~~  
6 ~~escheat to the State on June 30, and all rights,~~  
7 ~~title, or interest of the owner shall be terminated~~  
8 ~~and all claims of the owner shall be forever barred;~~

9 ~~(2) A statement listing the names of owners of abandoned~~  
10 ~~property with a value greater than \$5,000 scheduled to~~  
11 ~~escheat to the State; and~~

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

18 ~~(d) This section shall not apply to sums payable on:~~

19 ~~(1) Travelers checks, money orders, and other written~~  
20 ~~instruments presumed abandoned under section 523A-4;~~

21 ~~(2) Checks, drafts, or similar instruments on which a~~  
22 ~~banking or financial organization is directly liable,~~

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1 ~~including a cashier's check and a certified check~~  
2 ~~presumed abandoned under section 523A-5; and~~  
3 ~~(3) Unpaid debt service payments on Hawaii state and~~  
4 ~~county bonds." ]~~

5 SECTION 2. Statutory material to be repealed is bracketed  
6 and stricken.

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

8  
9 INTRODUCED BY: \_\_\_\_\_

10 BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO UNCLAIMED PROPERTY.

PURPOSE: To repeal the permanent escheatment of unclaimed property to the State.

MEANS: Repeal section 523A-3.5, Hawaii Revised Statutes.

JUSTIFICATION: Section 523A-3.5 states that unclaimed property held by the State for periods ranging from two years to six years, depending upon the value of the property held, be permanently escheated to the State. This provision appears to be in conflict with the intent of the State's Unclaimed Property Program, that is, the State serves as custodian of the unclaimed property and reunites such unclaimed property with its rightful owners. While section 523A-3.5 was enacted in 1996, it has never been implemented. The public has not been harmed by the Department of Budget and Finance's ("Department") not implementing the permanent escheat provisions of section 523A-3.5.

Impact on the public: The public will be positively affected as there will no longer be a time limit for the filing of claims.

Impact on the department and other agencies: This bill will allow the Department to serve as custodian of unclaimed funds in perpetuity. Other departments are not affected.

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GENERAL FUND:           None.  
OTHER FUNDS:           None.  
PPBS PROGRAM  
DESIGNATION:           BUF-05.  
OTHER AFFECTED  
AGENCIES:              None.  
EFFECTIVE DATE:        Upon approval.

BUF-05(07)