

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON JUDICIARY
ON
HOUSE BILL NO. 131

February 10, 2009

RELATING TO UNCLAIMED PROPERTY

House Bill No. 131, allows unclaimed property claimants to submit affidavits affirming that they are the owners of unclaimed property in lieu of documented proof of ownership.

The Department of Budget and Finance is opposed to this bill as it would allow claimants with similar names to claim property solely on the basis of an affidavit when proof of ownership should be required. While we understand and appreciate the intent of the bill, the mission of the unclaimed property program is to return property to its rightful owner. If claimants are not required to provide proof of ownership and the program will be required to accept affidavits as proof of ownership, property may be returned to persons other than the rightful owner. For example, the Program currently holds property for 57 persons named John Smith with differing personal information. A John Smith would be able to submit an affidavit for a number of these properties to which he may not be entitled to.

Claimants currently are required to provide documented proof of ownership to prevent possible abuse. The unclaimed property program currently subscribes to a database comprised of many public records which provides confirmation of previous addresses for owners for up to the previous twenty years, providing many claimants

assistance in providing their documented proof of ownership. When requested, the unclaimed property staff provides suggestions for sources of proof of ownership and has also contacted the companies reporting property to assist owners in proving ownership.

Finally, the bill is unclear as to whether the Director of Finance shall be required to accept an affidavit as proof of ownership or if a claim may be denied even with the submittal of an affidavit. Clarification is requested regarding this language.

Unrelated to this proposal but related to the unclaimed property program, the department recommends the following amendment to make consistent with the current provisions of chapter 523A, amending the Section 523A-9, HRS, which will be enacted on July 1, 2009 pursuant to Act 55, SLH 2008, to allow the reporters of unclaimed property the ability to return property to the owners before remitting property to the state by adding the following to Section 523A-9, HRS:

- (e) If the owner establishes the right to receive the abandoned property to the satisfaction of the holder before the property has been delivered or it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or delivery the property to the director, and the property will no longer be presumed abandoned. In that case, the holder shall file with the director a verified written explanation of the proof of claim or of the error in the presumption of abandonment.
- (f) Property reported under section 523A-8 for which the holder is not required to report the name of the apparent owner shall be delivered to the director at the time of the filing of the report.

The department would also amend Section 523A-10, HRS, to be enacted on July 1, 2009 as follows:

(3) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the administrator 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, the property will be placed not later than May 1, in the custody of the director and all further claims shall thereafter be directed to the director.

Thank you for the opportunity to provide testimony on this bill.