

JAN 22 2021

A BILL FOR AN ACT

RELATING TO PUBLICITY RIGHTS.

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

1 SECTION 1. Chapter 482P, Hawaii Revised Statutes, known as
2 the Hawai'i Publicity Rights Act (HPRA), was enacted on July 15,
3 2009, to recognize the existence of the right of publicity,
4 which is a property right in the commercial use of one's name,
5 voice, signature, likeness, and other commercially valuable
6 attributes. The legislature finds that the HPRA, which prevents
7 the unauthorized use of another individual's name, voice,
8 signature, or likeness for commercial purposes, is an important
9 law that allows the people of Hawai'i to protect their legacy and
10 rights that are not covered by federal copyright law and state
11 and federal trademark laws.

12 The legislature further finds that the legislature's intent
13 in enacting the HPRA in 2009 was to recognize the right of
14 publicity held by all persons, living and dead, including those
15 who predeceased the enactment of the HPRA.



1 The purpose of this Act is to clarify that the HPRA applies
2 retroactively to protect the publicity rights of individuals who
3 died prior to the date of its enactment.

4 SECTION 2. Section 482P-1, Hawaii Revised Statutes, is
5 amended by amending the definitions of "deceased individual" and
6 "deceased personality" to read as follows:

7 "Deceased individual" means any individual, regardless of
8 the individual's place of domicile, residence, or citizenship at
9 the time of death or otherwise, who has died. "Deceased
10 individual" includes individuals who died prior to the enactment
11 of this chapter.

12 "Deceased personality" means any individual, regardless of
13 the personality's place of domicile, residence, or citizenship
14 at the time of death or otherwise, whose name, voice, signature,
15 or likeness had commercial value at the time of the individual's
16 death, whether or not during the lifetime of that individual,
17 the individual used the individual's name, voice, signature, or
18 likeness on or in products, merchandise, goods, or for purposes
19 of advertising, selling, or soliciting the purchase or sale of
20 products, merchandise, goods, or services. "Deceased



1 personality" includes personalities who died prior to the
2 enactment of this chapter."

3 SECTION 3. Section 482P-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " ~~[+]~~ §482P-2 ~~[+]~~ **Property right in use of name, voice,**
6 **signature, or likeness.** Every individual or personality has a
7 property right in the use of the individual's or personality's
8 name, voice, signature, and likeness. The right shall be deemed
9 to have existed prior to the enactment of this chapter,
10 including at and after the time of death of any deceased
11 individual or deceased personality, and shall continue to exist
12 for a fixed period of time after death, as prescribed in section
13 482P-4. This right shall be freely transferable, assignable,
14 and licensable, in whole or in part, by any otherwise
15 permissible form of inter vivos or testamentary transfer,
16 including without limitation a will or other testamentary
17 instrument, trust, contract, community property agreement, or
18 cotenancy with survivorship provisions or payable-on-death
19 provisions, whether the will or other testamentary instrument,
20 trust, contract, community property agreement, or cotenancy
21 document is entered into or executed by the deceased individual



1 or personality or by any subsequent owner of the deceased
2 individual's or personality's rights as recognized by this
3 chapter; or, if none is applicable, then the owner of the rights
4 shall be determined under the laws of intestate succession
5 applicable to interests in intangible personal property. The
6 right exists whether or not it was commercially exploited by the
7 individual or the personality during the individual's or the
8 personality's lifetime. The right does not expire upon the
9 death of the individual or personality, regardless of whether
10 the law of the domicile, residence, or citizenship of the
11 individual or personality at the time of death or otherwise
12 recognizes a similar or identical property right. This chapter
13 is intended to apply to all individuals and personalities,
14 living and deceased, including those who died prior to the
15 enactment of this chapter, regardless of place of domicile or
16 place of domicile at time of death. In the case of a deceased
17 individual or personality, the rights recognized under this
18 chapter shall be deemed to exist at the time of death of any
19 deceased individual or personality or subsequent successor of
20 their rights for the purpose of determining the person or



1 persons entitled to these property rights as provided for in
2 section 482P-3."

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

5 SECTION 5. This Act, upon its approval, shall take effect
6 retroactive to July 15, 2009.

7

INTRODUCED BY:

A. Kalani Egboh



S.B. NO. 714

Report Title:

Hawaii Publicity Rights Act; Right of Publicity; Deceased Persons; Retroactive Application

Description:

Clarifies the rights of publicity includes the rights of individuals who died prior to the enactment of the Hawaii Publicity Rights Act.

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