
A BILL FOR AN ACT

RELATING TO PUBLICITY RIGHTS.

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

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

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



1 The purpose of this Act is to clarify that the Hawaii
2 Publicity Rights Act applies retroactively to protect the
3 publicity rights of individuals who died before the date of its
4 enactment.

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

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

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



1 personality" includes personalities who died before 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 before the enactment of this chapter, including
10 at and after the time of death of any deceased individual or
11 deceased personality, and shall continue to exist for a fixed
12 period of time after death, as prescribed in section 482P-4.
13 This right shall be freely transferable, assignable, and
14 licensable, in whole or in part, by any otherwise permissible
15 form of inter vivos or testamentary transfer, including without
16 limitation a will or other testamentary instrument, trust,
17 contract, community property agreement, or cotenancy with
18 survivorship provisions or payable-on-death provisions, whether
19 the will or other testamentary instrument, trust, contract,
20 community property agreement, or cotenancy document is entered
21 into or executed by the deceased individual or deceased



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



1 purpose of determining the person or persons entitled to these
2 property rights as provided for in 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.



Report Title:

Hawaii Publicity Rights Act; Right of Publicity; Deceased
Persons

Description:

Clarifies the right of publicity includes the rights of
individuals who died before the enactment of the Hawaii
Publicity Rights Act. Effective retroactive to 7/15/2009.
(HD3)

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not legislation or evidence of legislative intent.*

