

ACT 108

H. B. NO. 2053-72

A Bill for an Act Relating to Decedents' Estates, Amending Chapters 531, 532, 533, and 535 of the Hawaii Revised Statutes.

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

SECTION 1. Chapter 531 of the Hawaii Revised Statutes is amended as follows:

(a) The word "judge" is changed to "court" wherever the same appears in sections 531-1, 531-6, 531-7, 531-8, 531-9, 531-12, 531-13, 531-14, 531-15, 531-17, 531-22, 531-28, 531-29, and 531-32.

(b) The words "sitting at chambers and" are deleted from section 531-9.

(c) The words "in equity" and "presiding" are deleted from section 531-15.

(d) The words "or judge" are deleted from paragraphs (2) and (3) of section 531-21.

(e) The word "suits" is changed to "actions" in the captions of sections 531-25 and 531-26.

(f) The word "he" is changed to "it" in the twenty-first line of the second paragraph of section 531-29, and in the eleventh and twelfth lines of section 531-32.

(g) The words "or judge" and the words "or his" are deleted from section 531-31.

(h) The words "judge of the" are deleted from the last sentence of section 531-52, and in the same sentence the word "he" is changed to "it".

(i) The words "judge of the court sitting at chambers in probate" are changed to "court having jurisdiction in probate" in section 531-55.

(j) The words "corporation counsel or" are inserted preceding "county attorney" in section 531-58.

(k) Section 531-2 is amended to read as follows:

"Sec. 531-2. Jury trial, when. Whenever the value of the estate of any deceased person exceeds \$500, any person claiming, before any circuit court sitting as a court of probate, the estate, or any part thereof, or any interest therein, by virtue of any will or testamentary devise, or by virtue of the statutes of descent of property in the State, who deems himself aggrieved by the decision of the court may, if any matter of fact is in issue, move that the issue of fact may be tried by a jury, and his motion shall not be denied. The motion shall be made not later than ten days after filing of the decision.

The judge who presided at the original hearing shall not preside at the trial before the jury."

(l) Section 531-3 is amended to read as follows:

"Sec. 531-3. Jury trial on request of prevailing party. When a motion for trial by a jury is made by the party against whom judgment has been rendered by the circuit court sitting as a court of probate, the prevailing party may likewise move the court that any issue of fact may be tried by a jury, and his motion shall not be denied. The motion shall be made not later than ten days after the opposing party has made his motion."

(m) Section 531-4 is amended to read as follows:

"Sec. 531-4. Evidence on jury trial; no retrial by the court without a jury. On any trial held pursuant to a motion under section 531-2 or section 531-3, the record of the court on the original hearing may be read as testimony, and either party may introduce further testimony, and also reexamine orally any witnesses whom he may have produced and examined on the original hearing. There shall be no retrial of any issue of fact by the court without a jury, unless a new trial is granted on grounds duly shown."

SECTION 2. Chapter 532 of the Hawaii Revised Statutes is amended by deleting from the thirteenth line of section 532-7 the words "at law or other process" and the word "hereafter".

SECTION 3. Chapter 533 of the Hawaii Revised Statutes is amended by adding to section 533-17 a new paragraph to read as follows:

"When the dower or curtesy in real estate cannot be set apart without great injury to the owners, the court may ascertain the value of the dower or curtesy in money, and order the same to be paid on such terms as shall be just and reasonable."

SECTION 4. Chapter 535 of the Hawaii Revised Statutes is amended as follows:

(a) Section 535-1 is amended by deleting from the third and fourth lines the words "file a complaint before a circuit judge" and inserting in lieu thereof "commence an action in a circuit court", and by deleting from the next to the last line the words "complaint to be filed" and inserting in lieu thereof the words "action to be commenced".

(b) Section 535-2 is amended to read as follows:

"Sec. 535-2. Judgment in such case. The court shall hear and decide every such case, according to the usages and principles of courts of equity, and shall render such judgment therein as justice and equity may require."

(c) Section 535-3 is amended by deleting from the second and sixth lines the word "judge" and inserting in lieu thereof the word "court".

(d) Section 535-4 is amended by deleting from the second line the word "decree" and inserting in lieu thereof the word "judgment".

(e) Section 535-6 is amended by deleting from the second and sixth lines the word "suit" and inserting in lieu thereof the word "action".

(f) Section 535-7 is amended by changing the word "Suit" in the caption to read "Action"; by deleting from the third line the words "a suit" and inserting in lieu thereof "an action"; by deleting from the sixth line the words "file a complaint before" and inserting in lieu thereof "commence an action in"; by deleting from the sixth and seventh lines the word "judge" and inserting in lieu thereof "court"; by deleting from the eighth line the words "his decree" and inserting in lieu thereof "its judgment"; and by deleting from the last line the words "on his part".

(g) Section 535-5 is deleted.

SECTION 5. The amendments made by this Act shall not affect or repeal any other act passed at the same session of the legislature, and all such acts shall have full effect. So far as such acts conflict with any provision contained in this Act, they shall have the effect of subsequent acts.

SECTION 6. This Act upon its approval shall take effect on July 1, 1973.

(Approved May 23, 1972.)