

ACT 12

H. B. NO. 1748-72

A Bill for an Act Relating to Destroyed, Defaced, Lost or Stolen Bonds; Lost Coupons.

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

SECTION 1. Section 39-31, Hawaii Revised Statutes, is amended to read:

“Sec. 39-31 Duplicates. Whenever it appears to the director of finance of the State by clear proof satisfactory to him that any interest bearing bond of the State has, without bad faith upon the part of the owner, been lost, stolen, destroyed, wholly or in part, or so defaced as to impair its value to the owner; the bond is identified by number and description, and the request for issuance of a new bond was made before the director had notice that the bond had been acquired by a bona-fide purchaser, the director shall, under such conditions and upon such security as prescribed in section 39-33 cause to be issued a duplicate thereof, with remaining unpaid coupons attached and so marked as to show the original number of the bond lost, stolen, destroyed or defaced and the date thereof.

“All duplicate bonds issued in place of bonds lost, stolen, destroyed or defaced shall be lithographed or steel engraved, and shall be signed by the director of finance of the State, and by the comptroller of the State, and be sealed with the seal of the department of budget and finance. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the director of finance of the State.

“When the lost, stolen, destroyed or defaced bond appears to have been of a class or series that has been called or will be called in for redemption or will mature within a period of one year following the date of application for a duplicate bond, instead of issuing a duplicate bond therefor, the director may, under such conditions and upon such security, if any, as he may prescribe, pay the bond at its call date with interest if it is already called for redemption or if it is to be called for redemption, or will mature within the period of one year, issue a transferable certificate of ownership to the applicant, and pay on the certificate the call price of the bond represented thereby together with interest called for by the lost, stolen, destroyed or defaced bond on the date of its call or its original maturity upon surrender of the certificate of ownership. All transferable certificates of ownership which may be issued pursuant to the terms hereof shall be in such form as the director may prescribe and shall be signed by the director and by the comptroller of the State and sealed with the seal of the department of budget and finance.

“All expenses necessary for the providing of any duplicate bond or certificate of ownership shall be borne by the owner thereof.”

SECTION 2. Section 39-32, Hawaii Revised Statutes, is amended to read:

“**Sec. 39-32 Payment to be made.** Whenever any interest coupons on any bonds issued by the State are lost, destroyed, defaced, or stolen, any person being the legal holder of these coupons may secure payment of the same, notwithstanding the loss, destruction, defacement, or theft, in the manner provided in section 39-33. This part shall apply also to interest coupons lost, destroyed, defaced, or stolen prior to May 1, 1929.”

SECTION 3. Section 39-33, Hawaii Revised Statutes, is amended to read:

“**Sec. 39-33 Method of issuance and payment.** An applicant for issuance of a new bond or for payment shall make written application, under oath, in such form as the director of finance of the State shall prescribe, stating facts definitely identifying the bonds or coupons and showing the loss, destruction, or theft of the same, and the ownership of the same by the person applying, and shall present such further evidence as the director may reasonably require to establish the identity of the bonds or coupons, their loss, destruction, defacement, or theft, and the ownership of the same by the applicant.”

“The director, if he is satisfied that the person is the legal holder of the bonds or coupons, that the same have been lost, destroyed, defaced, or stolen, and that the same has not been acquired by a bona-fide purchaser, shall thereupon, except as hereinafter provided, issue a new bond or pay to the applicant the amount of the lost, destroyed, defaced, or stolen bonds or coupons, the payments to be made out of the general fund of the State by warrant of the comptroller of the State; provided, that no such issuance or payment shall be made until and unless (1) at least six months shall have elapsed after the date of application during which time the bonds or coupons shall not have been presented and paid to a holder in due course thereof; and (2) the applicant shall have executed and delivered to the director a legal and sufficient bond

in the amount of twice the aggregate sum called for by the lost, destroyed, defaced, or stolen bonds or coupons, in such form and with such sufficient surety or sureties as shall be satisfactory to the director, conditioned to indemnify and save harmless the State from any loss on account of the bonds or coupons so claimed to have been lost, destroyed, defaced, or stolen.”

SECTION 4. Section 39-34, Hawaii Revised Statutes, is amended to read:

“Sec. 39-34 Disputed ownership. If there are two or more claimants claiming adversely, each to the other or others, to be the holder in due course of the bonds or coupons alleged to have been lost, destroyed, defaced, or stolen, the director of finance may, in his discretion, require the claimants, if not within the State, to appoint agents within the State to accept service of process, or otherwise to submit to the jurisdiction of the courts of the State, and may bring suit on behalf of the State in the circuit court of the first judicial circuit, against the claimants, by interpleader, for the determination of the claimant or claimants entitled to the payment of the bonds or coupons. Jurisdiction is hereby conferred upon the court to hear and determine, without a jury, the suits and to determine whether any of the claimants is entitled to the payment, and, if so, which of the claimants is so entitled; provided, that the determination shall not dispense with the conditions prescribed by section 39-33 requiring six months to elapse, and the giving of a bond, before the payment of the claims. The costs of the suit shall be borne by the claimants, and the court may decree the payment of such costs by any of the unsuccessful claimants, or the apportionments thereof, as may be deemed just. The decision of the court shall be appealable to the supreme court.”

SECTION 5. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed materials, or the underscoring.*

SECTION 6. This Act shall take effect upon its approval.

(Approved April 11, 1972.)

*Edited accordingly.