

ACT 192

H.B. NO. 967

A Bill for an Act Relating to the Uniform Probate Code.

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

SECTION 1. **Purpose.** Under the Uniform Probate Code, upon the death of a person, his real property vests in the persons to whom it is devised by his last will. The devisees are entitled to the real property in accordance with the terms of a probated will. While subject to certain restrictions and limitations, the power of a person to leave property by will is otherwise broad and flexible. With respect

to the disposition of real property, testators have exercised this power to effect subdivision of land in the will for the purpose of devising the subdivided lots to the devisees without proper governmental approval of the subdivision and without conformance with the applicable subdivision laws. The purpose of this Act is to provide that a provision in a will purporting to subdivide a parcel of land and devising the subdivided lots is unenforceable. The devisee under such a devise shall take an undivided interest in the whole parcel of land in the proportion that the interest in the subdivided lot intended to be conveyed to the devisee under the will bears to the aggregate interest of the whole of the parcel of land.

SECTION 2. Act 200, Session Laws of Hawaii 1976, part 9 of the Uniform Probate Code is amended by adding thereto a new section to read as follows:

"Sec. 3- Distribution of improper devise of real property. A provision in a will purporting to subdivide a parcel of land, not otherwise lawfully subdivided under existing laws of the county in which the land is situated, and devising the subdivided lots to specific devisees is unenforceable. Under any such purported devise, each of the specific devisees shall have distributed to him an undivided interest in the parcel of land in the ratio that the interest of the purported devise of the subdivided lot or lots to him bears to the aggregate interest of the whole of the parcel of land."

SECTION 3. New statutory material is underscored. In printing this Act, the revisor of statutes need not include the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 8, 1977.)

*Edited accordingly.