

ACT 289

H.B. NO. 1515

A Bill for an Act Relating to Duties of Safe Deposit Companies, Trust Companies, Banks, Etc.

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

SECTION 1. Section 236-24, Hawaii Revised Statutes, is amended to read as follows:

“§236-24 Duties of safe deposit companies, trust companies, banks, etc. No

safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, having possession or control of any property of a decedent, or property standing in the name of a decedent and one or more persons as joint tenants or tenants by the entirety, shall deliver, transfer, or pay the property to the personal representatives or legal representatives of the decedent, or to the surviving joint tenants or tenant by the entirety, or to any other person, or upon the order or request of any of the foregoing, without retaining a sufficient portion or amount thereof to pay any tax and the interest thereon which may thereafter be assessed or become due on account of the property, unless the director of taxation consents thereto in writing; provided that[,] where the property consists of or includes jointly held savings or commercial checking accounts, such safe deposit company, trust company, bank, corporation, or other institution, partnership, or person may release up to fifty per cent of such jointly held savings or commercial checking accounts without the consent of the director of taxation upon notification to the director, in writing, stating the name of the decedent, the name of the surviving joint tenant, or tenants or tenant by the entirety, to whom, or at whose order, the delivery, transfer, or payment was made, the date of same, and the amount of the delivery, transfer, or payment. When the decedent was at the time of [his] death a resident of the State, and the delivery, transfer, or payment is made to, or at the order of, the personal representative or other legal representative of the decedent, and does not consist of the contents of a safe deposit box, or of property standing in the name of the decedent and one or more persons as joint tenants or tenants by the entirety, it shall not be necessary to so retain assets for the payment of taxes and interest, or to obtain the consent of the director, if the safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, immediately upon the delivery, transfer, or payment, notifies the director thereof in writing, stating the name of the decedent, the name of the personal representative or other legal representative of the decedent, to whom, or at whose order, the delivery, transfer, or payment was made, the date of same, and a description of the property. The word "property" as used in this section means property of every kind and nature, including shares of the capital stock of, or other interests in, or claims against, the safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, making the delivery, transfer, or payment.

The director, personally or by representative, may examine the property which is about to be or has been delivered, transferred, or paid. Failure to allow such examination or failure to conform to this section shall render the safe deposit company, trust company, bank, corporation, or other institution, partnership, or person, liable to a payment of twice the amount of the tax and interest due or thereafter to become due upon the property delivered, transferred, or paid in violation hereof, and the liability shall be enforced in an action brought in accordance with section 236-38.

The provisions of this section concerning the delivery, transfer, or consent to delivery or transfer of securities of a corporation incorporated under the laws of this State do not apply to securities registered in the name of a nonresident decedent unless the decedent was a resident of a foreign country. In determining that the decedent was not a resident of a foreign country, a Hawaii corporation and its transfer agents in making delivery or transfer under this section may conclusively

rely upon an affidavit in a form prescribed by the director.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect on July 1, 1982.

(Approved June 22, 1982.)