

## ACT 167

H.B. NO. 788

A Bill for an Act Relating to the Probate Code.

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

SECTION 1. Section 560:3-801, Hawaii Revised Statutes, is amended to read as follows:

**“§560:3-801 Notice to creditors; transfer of claims.** (a) Unless notice has already been given under this section, a person applying or petitioning for appointment of a personal representative shall publish a notice once a week for three successive weeks in a newspaper of general circulation in the judicial circuit in which the application or petition is filed announcing the person’s application or petition, the name of the person nominated as personal representative, and notifying creditors of the estate to present their claims as provided in section 560:3-804 [within] no later than four months after the date of the first publication of the notice or be forever barred. The notice may be combined with any published notice of the pendency of the probate proceedings.

(b) After appointment, the personal representative shall give written notice by mail or other delivery to each known creditor notifying the creditor to present the creditor’s claim no later than four months after the date of the first publication of the published notice, or no later than sixty days after the mailing or other delivery of the notice, whichever period expires later, or be forever barred. Written notice must contain the same information required for the notice described in subsection (a).

(c) The personal representative shall undertake reasonable review of the decedent’s records to ascertain the decedent’s creditors.

(d) The personal representative is not liable to a creditor of the decedent for giving or failing to give notice under this section.

[(b)] (e) If [the application or petition is denied,] a person other than the original nominee is appointed special administrator or personal representative, the original nominee shall promptly deliver all claims to the person who is appointed. Failure to deliver shall render the original nominee liable for any damages suffered by the claimants.”

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SECTION 2. Section 560:3-803, Hawaii Revised Statutes, is amended to read as follows:

**“§560:3-803 Limitations on presentation of claims.** (a) All claims against a decedent’s estate which arose before the death of the decedent, including claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) Within four months after the date of the first publication of notice to creditors if notice is given in compliance with section 560:3-801; provided claims barred by the nonclaim statute at the decedent’s domicile before the first publication for claims in this State are also barred in this State.]

(1) No later than:

(i) Four months after the date of the first publication of notice to creditors if notice is given in compliance with section 560:3-801(a); or

(ii) Sixty days after the mailing or other delivery of written notice, as provided in section 560:3-801(b);  
whichever period (i) or (ii) expires later; or

(2) Within three years after the decedent’s death, if notice to creditors has not been published[.] as provided in section 560:3-801(a) or delivered as provided in section 560:3-801(b).

(b) A claim described in subsection (a) which is barred by the non-claim statute of the decedent’s domicile before the giving of notice to creditors in this State is barred in this State.

[(b)] (c) All claims against the decedent’s estate which arise at or after the death of the decedent, including claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) A claim based on a contract with the personal representative, within four months after performance by the personal representative is due;  
or

(2) Any other claim, within four months after it arises.

[(c)] (d) Nothing in this section affects or prevents:

(1) Any proceeding to enforce any mortgage, pledge, lien, or other secured interest upon property of the estate; or

(2) To the limits of the insurance protection only, any proceeding to establish liability of the decedent or the personal representative for which the personal representative is protected by liability insurance[, but any such proceeding must be commenced within the later of the time specified in subsection (a) or (b) above, as appropriate, or two years of the occurrence of the event insurance against.]; or

(3) Collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

**SECTION 4.** This Act shall take effect upon its approval.  
(Approved June 9, 1993.)