

ACT 47

H.B. NO. 439

A Bill for an Act Relating to Evidence.

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

SECTION 1. Section 626-1, Hawaii Revised Statutes, is amended by amending rule 303, subsection (c), to read as follows:

“(c) Presumptions. The following presumptions, and all other presumptions established by law that fall within the criteria of subsection (a) of this rule, are presumptions imposing the burden of producing evidence:

- (1) Money delivered by one to another. Money delivered by one to another is presumed to have been due to the latter[-];
- (2) Thing delivered by one to another. A thing delivered by one to another is presumed to have belonged to the latter[-];
- (3) Obligation delivered up to the debtor. An obligation delivered up to the debtor is presumed to have been paid[-];
- (4) Obligation possessed by creditor. An obligation possessed by a creditor is presumed not to have been paid[-];
- (5) Payment of earlier rent or installments. The payment of earlier rent or installments is presumed from a receipt for later rent or installments[-];
- (6) Things possessed. The things ~~[which]~~ that a person possesses are presumed to be owned by the person[-];
- (7) Exercise of act of ownership. A person who exercises acts of ownership over property is presumed to be the owner of it[-];
- (8) Judgment determines, sets forth rights of parties. A judgment, when not conclusive, is presumed to correctly determine or set forth the rights of the parties, but there is no presumption that the facts essential to the judgment have been correctly determined[-];
- (9) Writing. A writing is presumed to have been truly dated[-];
- (10) Letter properly addressed and mailed. A letter correctly addressed and properly mailed is presumed to have been received in the ordinary course of mail[-];

- (11) Trustee's conveyance to a particular person. A trustee or other person, whose duty it was to convey real property to a particular person, is presumed to have actually conveyed the real property to the person when such presumption is necessary to perfect title of such person or the person's successor in interest[-];
- (12) Ancient document affecting real or personal property interest. A deed or will or other writing purporting to create, terminate, or affect an interest in real or personal property is presumed authentic if:
  - (A) It is at least twenty years old;
  - (B) It is in such condition as to create no reasonable suspicion concerning its authenticity;
  - (C) It was kept, or if found was found, in a place where such writing, if authentic, would be likely to be kept or found; and
  - (D) Persons having an interest in the matter have been generally acting as if it were authentic[-];
- (13) Book or other material purporting to be published by public authority. A book or other material purporting to be printed [øf], published, or posted to an internet website by public authority is presumed to have been so printed [øf], published[-], or posted;
- (14) Book or internet website purporting to contain reports of adjudged cases. A book or government website purporting to contain reports of cases adjudged in the tribunals of the state or nation where the book is published or from which the government website is maintained is presumed to contain correct reports of such cases[-];
- (15) Continuation of a fact, condition, or state. A fact, condition, or state of things is presumed to continue[-]; and
- (16) Paid bills. A bill for goods or services that has been paid is presumed to be authentic and to embody fair and reasonable charges for the itemized goods or services."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

SECTION 4. This Act shall take effect on July 1, 2011.

(Approved May 5, 2011.)