

Chapter 05

ESCHEAT OF PERSONAL PROPERTY

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40.0501 Definitions.

As used in this chapter, unless the context clearly requires otherwise.

(1) (1) "Personal property" means money, negotiable instruments, choses in action, interest, debts or demands due to the escheated estate, stocks, bonds, deposits, machinery, farm crops, live stock, fixtures, and every other kind of tangible or intangible property and the assertions thereon, up until the time of the commencement of the action for escheat. It does not mean real property or the property in the custody of any court in this Territory, nor any property covered by sections 28.1601 to 28.1615.

(2) (2) The terms "owners", "beneficial owner", "person", "person having custody or possession", "person having any interest", "person entitled to", or any word, term phrase of similar import, mean and includes corporations, companies, associations, societies, firms, partnerships, joint stock companies, fiduciaries of any nature, as well as individuals.

(3) (3) "Treasurer" means the Treasurer of American Samoa.

History: 1988, PL 20-64.

40.0502 Intestate estates to escheat--Notice to Attorney General.

(a) If any person, who, at the time of his death, is the owner of any personal property in this Territory, and died, intestate, without heirs or known kindred, capable of inheriting the same, and without leaving a surviving spouse, such personal property, shall escheat to the Territory.

(b) Whenever application is made to the High Court for the appointment of an administrator of the estate of an intestate decedent and such application discloses that the decedent died without known heirs, next of kindred or surviving spouse, before any action is taken thereon reasonable notice of such application shall be given to the Attorney General.

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History: 1988, PL 20-64.

40.0503 Unknown owner's property to escheat--Exemptions.

Whenever the owner, beneficial owner, or person entitled to any personal property within this Territory, has remained unknown for the period of 14 successive years, or whenever the whereabouts of such owner, beneficial owner or person, has remained unknown for the period of 14 successive years, or whenever any personal property wherever situated has remained unclaimed for the period of 14 successive years, then, in any such event, such personal property shall escheat to the Territory. The provisions of this section are not applicable to sums payable on a money order or travelers check issued or sold in this Territory.

History: 1988, PL 20-64.

40.0504 Jurisdiction of the High Court.

The High Court, Trial Division, has jurisdiction in all escheat cases.

History: 1988, PL 20-64.

40.0505 Appointment of escheator.

Whenever, by reason of any information filed with the Attorney General, or which comes to his notice so that he shall become aware of the fact that any personal property has escheated or is supposed to have escheated to the Territory under the provisions of this chapter, he shall appoint some suitable person or persons to act as a escheator of such property.

History: 1988, PL 20-64.

40.0506 Information obtained by escheator.

Such escheator, when so appointed, must proceed and furnish to the Attorney General all the facts, information and evidence necessary to prosecute successfully the escheat in the High Court.

History: 1988, PL 20-64.

40.0507 Action in High Court--Parties.

The action in the High Court for escheat is brought in the name of the Territory of American Samoa by the Attorney General and against the person having custody or possession of the personal property alleged to have escheated to the Territory.

History: 1988, PL 20-64.

40.0508 Notice.

(a) The Court provides for notice of the action by directing that a notice as stated below be posted in the place specified by the Court where other notices required to be posted are customarily posted, and that the name be published once a week for 2 successive weeks in a newspaper of general circulation in the Territory. The posting and last publication must be made not less than 20 days before the date fixed for the hearing.

(b) (b) Such notice shall be directed to the person or persons having custody or possession

of such personal property, to the owners or beneficial owners of, or persons entitled to, the personal property and all other persons whatsoever claiming an interest therein. The notice must be in the form approved by the Court and shall declare substantially the following matters:

- (1) (1) the filing of the complaint in escheat;
- (2) (2) the ground of grounds of escheat specified in sections 40.0502 and 40.0503, which are applicable to the action;
- (3) (3) the names and last known addresses of the owners or beneficial owners of, or persons entitled to, such personal property;
- (4) (4) the nature and value of such personal property;
- (5) (5) the place, time and date of the hearing in the action; and
- (6) (6) a direction that at a specified time before the hearing anyone who claims an interest in the property must file with the clerk of the Court his claim and at the time and place fixed for the hearing appear in person or by his attorney to substantiate his claim.

(c) Where the name of the owner is not known or there is no information as to the last known address of the owner, the notice must state that fact. The notice may contain such other information as the Court deems proper and which, as a practical matter under the circumstances, might result in notice to the owner.

History: 1988, PL 20-64.

40.0509 Judgment of escheat.

(a) (a) The High Court, by its judgment, may determine the title to such personal property, and where the Court finds that such personal property, in whole or in part, has escheated to the Territory, the judgment must so declare, and such personal property shall thereupon escheat to the Territory.

(b) (b) Upon timely application in the cause by the person having such property in his possession, the High Court, by said judgment, may further provide that such items of personal property without substance or value that otherwise would escheat to the Territory, but which are not taken by the Territory in such escheat proceedings by reason of the worthless nature of such items may, after the 2 years from the date of filing of such judgment, be abandoned or destroyed by the person having possession of the same.

History: 1988, PL 20-64.

40.0510 Delivery of escheated property—Proceeds deposited.

(a) (a) Upon the filing of a final judgment escheating personal property, the person having such property in his possession shall forthwith deliver the same to the Treasurer. If such personal property be in the form of money, the Treasurer shall deposit the same into the general fund of the Territory; if in the form of negotiable securities or personal property, he must give public notice thereof and sell the property at public or private sales, as he may deem to be in the best interest of the Territory, and must deposit the proceeds thereof in the general fund.

(b) (b) Before depositing the escheated property or the proceeds in the general fund, the Treasurer must deduct 5% of the money received and pay it to the escheator as a reward for having supplied the information and evidence upon which the escheat was successfully prosecuted and must pay such other fees and costs as the judgment directs.

History: 1988, PL 20-64.

40.0511 Operation of judgment

Any judgment entered pursuant to this chapter, and the provisions contained therein, automatically operates as a full, absolute and unconditional release and discharge of the person having the escheated property in possession or custody from any and all claims, demands, or liability to any person, other than the Treasurer, with respect to such property, and such judgment may be pleaded as an absolute bar to any action brought against such person with respect to such property by any person other than the Treasurer.

History: 1988, PL 20-64.

40.0512 Proceedings without cost.

All proceedings in escheat in the High Court shall be without costs to the Territory or to the parties defendant except that the Court may impose such costs or counsel fees against a defendant where such defendant is found by the Court to have defended the escheat proceedings without reasonable cause or justification.

History: 1988, PL 20-64.

40.0513 Joinder of properties and actions.

It is lawful to join more than one escheatable property or estate and more than one action where it appears that the amount of escheatable property in each case does not exceed \$1,000.

History: 1988, PL 20-64.

40.0514 Title absolute.

The title to property acquired by purchasers sold under and by the provisions of this chapter shall be absolute.

History: 1988, PL 20-64.

40.0515 Access to all reports.

The Attorney General in handling cases under this chapter, shall at all reasonable times have access to and be entitled to certified copies of all public papers and reports filed with any department of the American Samoa Government, free from any cost, charge or fee, except for personal medical records at the medical center which may be secured by discovery or with patient or family permission.

History: 1988, PL 20-64.

40.0516 Certified judgments.

Upon the final determination or adjudication in any escheat action provided herein, the Attorney General must transmit a duly certified copy of the judgment to the Treasurer.

History: 1988, PL 20-64.

40.0517 Reopening judgement.

Any person whose property may have escheated to the Territory as provided herein, or any rightful heir, spouse or next of kin entitled to such property by descent or succession may within 2 years after the filing of the final judgment in the High Court, apply to that Court to reopen the judgment upon proof that the applicant was without actual knowledge of such

escheat action, and upon proof of ownership of such property or the right to possession thereof, the Court may in its discretion reopen the judgment. In the event that the aforesaid judgment in part or in whole be revised or amended, the Court may direct the Treasurer to repay such part of the money received by the Treasurer by reason of such judgment, to the party who is entitled to it. Upon the entry of the amended judgment, the Treasurer must repay the said money as provided in such judgment; provided, however, that there shall first be deducted all expenses and charges that may have accrued or been paid out by reason of the entry of the original judgment.

(c) (c) Whenever it appears to the satisfaction of the Attorney General that a person is the lawful owner of any money that has heretofore been received by the Treasurer under the provisions of this chapter, and that such money is less than \$1,000, the Attorney General is authorized to request payment by the Treasurer to repay to the lawful owner the money so received less appropriate deductions, without the necessity of reopening the original judgment entered.

History: 1988, PL 20-64.