

JAN 24 2007

A BILL FOR AN ACT

RELATING TO SERVICE OF PROCESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 **CIVIL PROCESS SERVERS**

6 § -1 **Service of civil process.** Service of civil process
7 shall be made by:

- 8 (a) A civil court officer anywhere in the State;
9 (b) A private process server anywhere in the State;
10 (c) Any person specially appointed by the court for that
11 purpose; or
12 (d) Any person who is not a party to the action and is not
13 less than eighteen years of age.

14 § -2 **Service of subpoena.** A subpoena in a civil action
15 may be served by:

- 16 (a) A public safety officer anywhere in the State;
17 (b) A civil court officer anywhere in the State;
18 (c) A private process server anywhere in the State;



1 (d) The chief of police of the county in which the
2 subpoena is to be served or a duly authorized
3 subordinate of the chief of police; or

4 (e) Any person who is not a party and is not less than
5 eighteen years of age.

6 § -3 **Service of writs and court orders.** Writs of
7 execution, writs of replevin, writs of possession, writs of
8 attachments, and all other civil court orders may be served by:

9 (a) A civil court officer anywhere in the State; or

10 (b) A private investigator, licensed under chapter 463,
11 anywhere in the State.

12 § -4 **Private process server.** (a) Any natural person
13 who serves process within this State more than ten times during
14 a single calendar year, for specific compensation or in
15 expectation of specific compensation, where the compensation is
16 directly attributable to the service of process, shall comply
17 with the requirements of subsection (b) and shall file and
18 maintain a verified certificate of registration as a process
19 server with the office of civil process commission. Any
20 corporation or partnership that derives or expects to derive
21 compensation from service of process within this State shall



1 also file and maintain a verified certificate of registration as
2 a process server with the office of civil process commission.

3 (b) Any natural person subject to the requirements of
4 subsection (a) shall:

5 (1) Be a United States citizen;

6 (2) Possess a high school diploma or equivalent;

7 (3) Be at least twenty-one years of age;

8 (4) Possess a valid driver's license;

9 (5) Be free of any felony convictions;

10 (6) Demonstrate knowledge and application of the Hawaii
11 rules of civil procedure by successful completion of a
12 twenty-five question examination administered by the
13 office of civil process commission; and

14 (7) Pay an annual registration fee of \$100 and register
15 with the office of civil process commission.

16 All persons that meet the requirements of this subsection shall
17 be issued a certificate of registration and a "PRIVATE PROCESS
18 SERVER" photographic identification card by the office of civil
19 process commission.

20 (c) This section shall not apply to:

21 (1) Any public safety officer, police officer, or

22 government employee acting within the course and scope



1 of employment of the public safety officer, police
2 officer, or government employee;

3 (2) An attorney or the attorney's employees;

4 (3) Any person who is specially appointed by a court to
5 serve its process; or

6 (4) A private investigator, licensed under chapter 463, or
7 the licensed private investigator's employees.

8 **§ -5 Civil court officers.** (a) All persons who were
9 certified civil deputies with the department of public safety,
10 civil branch, and were listed with the judiciary as civil
11 deputies on or about November 1, 2001, shall be recognized as
12 and called civil court officers. All persons recognized as
13 civil court officers under this subsection shall register with
14 the office of civil process commission and shall pay an annual
15 registration fee of \$100.

16 (b) Any natural person who qualifies as a private process
17 server pursuant to section -4 shall be recognized as a civil
18 court officer if the person:

19 (1) Possesses knowledge of state law relating to service
20 of process, writ of execution, writs of possession and
21 exempt property, writs of replevin, and writs of
22 attachment;



1 (2) Serves as apprentice with a professional enforcement
2 process server for a period to be determined by the
3 professional enforcement process server. The
4 professional enforcement process server shall be
5 liable for the apprentice's actions during
6 apprenticeship and after the apprentice is certified
7 as a professional enforcement process server; and

8 (3) Successfully completes a written examination once the
9 professional enforcement process server determines
10 that the person is ready.

11 (c) All persons that meet the requirements of this section
12 shall be issued a certificate of registration and a "CIVIL COURT
13 OFFICER" badge and photographic identification card by the
14 office of civil process commission.

15 § -6 **Office of civil process commission.** (a) The
16 office of civil process commission shall be comprised of an
17 administrator, a clerk, and an investigator. The commission
18 shall have three commissioners, one appointed by the board of
19 directors of the Hawaii state bar association, one appointed by
20 the chief justice of the supreme court of Hawaii, and are
21 appointed by the board of directors of the Hawaii deputy
22 sheriff's association.



- 1 (b) The office of civil process commission shall:
- 2 (1) Administer the registration process for private
- 3 process servers and civil court officers, collect
- 4 fees, and administer written examinations;
- 5 (2) Investigate all notarized complaints and provide
- 6 verification information to the commissioners; and
- 7 (3) Meet monthly to review operations, conduct hearings on
- 8 complaints, as necessary, and enforce the standards of
- 9 conduct established by section -7 by suspension or
- 10 revocation of registrations issued the commission.

11 (c) Monthly reports for operations and collection of fees

12 shall be made to the commission by those who serve process for a

13 fee.

14 (d) A \$1 surcharge shall be assessed for each civil

15 document filed in circuit and district courts. The judiciary

16 shall collect the surcharge at the time of filing and shall

17 forward the funds collected to the office of civil process

18 commission within thirty days after the end of each calendar

19 quarter.

20 § -7 **Private process servers; standards of conduct.** The

21 standards of conduct set forth in this section establish minimum

22 standards for performance by private process servers, ensure



1 that service of process is conducted in a professional manner,
2 and shall apply to all private process servers registered
3 pursuant to this chapter.

4 (1) Standard 1: Applicable laws and rules. The private
5 process server shall perform all services and discharge all
6 obligations in accordance with current state and federal laws,
7 the Hawaii rules of civil procedure, and the administrative
8 rules and orders of the office of civil process commission
9 governing the certification and registration of private process
10 servers.

11 (a) The private process server agrees to comply with all
12 necessary Hawaii certification requirements, bonds,
13 business licenses, permits, and other requirements
14 mandated by the State and the county in which the
15 private process server conducts business; and

16 (b) The private process server shall promptly file an
17 affidavit of service or return any unserved documents.

18 (2) Standard 2: Skills and Knowledge. The private
19 process server shall demonstrate the skills and knowledge
20 necessary to perform the work of a private process server and
21 shall seek training opportunities to maintain skills and
22 knowledge and to grow professionally.



- 1 (a) The private process server has an obligation to have
2 knowledge and keep informed of all current and
3 applicable laws regarding the service of process;
- 4 (b) The private process server has a responsibility to
5 maintain a working knowledge of proper manners of
6 service;
- 7 (c) The private process server shall possess the verbal
8 and written communication skills necessary to perform
9 the private process server role, including an aptitude
10 for communicating in person, by telephone, and by
11 completion of appropriate affidavits.
- 12 (d) The private process server shall keep the client
13 reasonably informed about the status of service and
14 promptly comply with reasonable requests; and
- 15 (e) All affidavits prepared by the private process server
16 shall be clear, accurate, and complete.
- 17 (3) Standard 3: Professionalism. The private process
18 server shall exercise the highest degree of professionalism in
19 all interactions with clients, the party to be served, and
20 others with whom they come in contact during the service. This
21 includes the ability to be discreet in dealing with confidential
22 information.



- 1 (a) The private process server shall maintain required
2 records in a professional manner;
- 3 (b) The private process server shall not provide or offer
4 to provide legal advice;
- 5 (c) The private process server shall not violate any rules
6 adopted by the supreme court of Hawaii or engage in
7 conduct that would reflect adversely on the judiciary
8 or other agencies integral to the administration of
9 justice;
- 10 (d) The private process server shall preserve the client's
11 confidences and this duty shall persist even after the
12 service of process is completed;
- 13 (e) The private process server shall maintain a neat and
14 clean appearance at all times and is responsible for
15 the appearance of the private process server's
16 employees and agents;
- 17 (f) The private process server shall neither be rude nor
18 use profanity or vulgarity in the performance of the
19 private process server's professional duties;
- 20 (g) The private process server shall handle all legal
21 documents with care; food and beverage stains, dirty



1 fingerprints, and torn documents denote carelessness
2 and disregard for their importance; and

3 (h) The private process server shall never make decisions
4 or representations regarding the merits of a lawsuit
5 and shall only explain the general nature of the
6 papers being served.

7 (4) Standard 4: Ethics. The private process server shall
8 perform services in a manner consistent with legal and ethical
9 standards.

10 (a) The private process server shall serve process in a
11 professional manner and avoid rudeness and
12 unprofessional conduct;

13 (b) Services shall be provided in a non-judgmental manner;

14 (c) The private process server shall avoid misrepresenting
15 the private process server's qualifications, fees, or
16 any other information relating to the process server;

17 (d) The private process server shall avoid utilizing the
18 private process server's position in any manner to
19 gain access to information or services for purposes
20 other than those of the service of process;

21 (e) The private process server shall maintain the best
22 interest of the client at all times and report to the

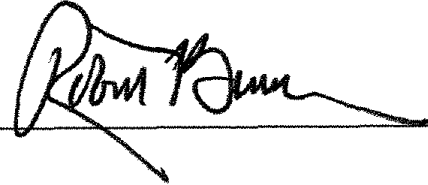


1 client the full facts, whether they are advantageous
2 or detrimental to the client."

3 SECTION 2. This Act shall take effect on January 1, 2008.

4

INTRODUCED BY:





Report Title:

Process Servers

Description:

Establishes who may serve civil process, standards and procedures for registering civil process servers, and an office of civil service process commission to regulate civil process servers.

