
A BILL FOR AN ACT

RELATING TO THE SERVICE OF PROCESS.

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

1 SECTION 1. Chapter 353C, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§353C- Service of process; list. (a) For service of
5 process, the director shall maintain a list of independent civil
6 process servers to process:

- 7 (1) Orders to show cause pursuant to chapters 603, 604,
8 and 633;
9 (2) Garnishment pursuant to chapter 652;
10 (3) Writs of replevin and attachment pursuant to chapter
11 634;
12 (4) Writs of possession pursuant to chapters 501 and 666;
13 (5) Orders for examination pursuant to chapter 636; and
14 (6) Writs of attachment or execution pursuant to chapter
15 651.



1 (b) Any independent civil process server may submit the
2 server's name to the director to be placed on the list; provided
3 that a person shall not be placed on the list if the person:

- 4 (1) Is serving a criminal sentence;
- 5 (2) Has been convicted of a crime within the previous ten
6 years;
- 7 (3) Is required to register as a sex offender; or
- 8 (4) Is subject to any other legal restriction, including a
9 temporary restraining order, that prevents the person
10 from serving process.

11 (c) The department, the State, and the agencies, officers,
12 and employees of the department or the State shall not be
13 responsible or liable for the actions of any independent civil
14 process servers on the list. The maintenance of the list shall
15 not create a private cause of action against the department, the
16 State, or the agencies, officers, and employees of the
17 department or the State.

18 (d) Placement of a person's name on the list shall not
19 make the person a law enforcement officer, sheriff or deputy
20 sheriff, or an employee or agent of the State."

1 SECTION 2. Section 501-154, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§501-154 Writ of possession, service, time limit for
4 registration. When in any action in the nature of an action of
5 ejectment an execution or writ of possession has been issued and
6 served by the [~~officer,~~] sheriff, deputy sheriff, police
7 officer, or independent civil process server from the department
8 of public safety's list under section 353C- , the [~~officer~~]
9 sheriff, deputy sheriff, police officer, or independent civil
10 process server shall cause a copy of the writ, with a return of
11 the [~~officer's~~] doings of the sheriff, deputy sheriff, police
12 officer, or independent civil process server thereon, to be
13 filed and registered within three months after the service and
14 before the return of the writ into the clerk's office. The
15 plaintiff, in case the judgment was that the plaintiff was
16 entitled to an estate in fee simple in the demanded premises, or
17 in any part thereof, and for which execution or writ of
18 possession issued, is thereupon entitled to the entry of a new
19 certificate of title."

20 SECTION 3. Section 603-29, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§603-29 Order to show cause.** Whenever a complaint has
2 been filed in circuit court alleging leased or rented personal
3 property the value of which is \$5,000 or more, has been retained
4 by the defendant fourteen days after the termination of the
5 lease or rental contract, either by passage of time or by reason
6 of any default under the terms and conditions of the lease or
7 rental contract, the plaintiff may petition the court for an
8 order to show cause.

9 Upon the filing of the petition with a copy of the lease or
10 rental contract and an affidavit sworn to by the plaintiff or
11 some competent affiant setting forth a statement of facts
12 sufficient to show the termination of the lease or rental
13 contract, the court may issue an order directing the defendant
14 to either return the leased or rented personal property to the
15 plaintiff or to appear and show cause for the possession at such
16 time as the court shall direct but not later than ten days from
17 the date of service of the order to show cause. The order to
18 show cause shall also provide that if the leased or rented
19 personal property is not returned to the plaintiff prior to the
20 hearing, the defendant shall, if reasonably feasible, produce
21 the property at the hearing. If, at the hearing, it is proved



1 to the satisfaction of the court that the plaintiff is entitled
2 to possession of the leased or rented personal property, it
3 shall issue an order directed to the sheriff, deputy sheriff,
4 ~~[or person authorized by the rules of court,]~~ police officer, or
5 independent civil process server from the department of public
6 safety's list under section 353C- commanding the sheriff,
7 deputy sheriff, ~~[or other person authorized by the rules of~~
8 ~~court]~~ police officer, or independent civil process server to
9 seize the personal property therein described and to deliver the
10 same to the plaintiff or the plaintiff's agent. Service of the
11 order to show cause shall be as provided by law or rule of court
12 for cases in the circuit courts, or by registered mail or by
13 certified mail with return receipt showing delivery within the
14 circuit."

15 SECTION 4. Section 604-6.2, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§604-6.2 Order to show cause.** Upon the filing of a
18 complaint with a copy of a lease or rental contract and an
19 affidavit sworn to by the plaintiff or some competent affiant
20 setting forth a statement of facts sufficient to show that the
21 leased or rented personal property has been in the defendant's



1 possession at least fourteen days after the termination of the
2 lease or rental contract, either by passage of time or by reason
3 of any default under the terms and conditions of the lease or
4 rental contract, the court may issue an order directing the
5 defendant to either return the leased or rented personal
6 property to the plaintiff or to appear and show cause for the
7 possession at such time as the court shall direct, but not later
8 than ten days from the date of service of the order to show
9 cause. The order to show cause shall also provide that, if the
10 leased or rented personal property is not returned to the
11 plaintiff prior to the hearing, the defendant shall, if
12 reasonably feasible, produce the property at the hearing. If,
13 at the hearing, it is proved to the satisfaction of the court
14 that the plaintiff is entitled to possession of the leased or
15 rented personal property, it shall issue an order directed to
16 the sheriff, deputy sheriff, [~~or other person authorized by the~~
17 ~~rules of court~~] police officer, or independent civil process
18 server from the department of public safety's list under section
19 353C-___ commanding the sheriff, deputy sheriff, [~~or a person~~
20 ~~authorized by the rules of court~~] police officer, or independent
21 civil process server to seize the personal property therein



1 described and to deliver the same to the plaintiff or the
2 plaintiff's agent. Service of the order to show cause shall be
3 as provided by law or rule of court for cases in the district
4 courts, or by registered mail or by certified mail with return
5 receipt showing delivery within the State."

6 SECTION 5. Section 607-4, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) Fees of sheriff, deputy sheriff, police officer, or
9 ~~[other person authorized by the rules of court:]~~ independent
10 civil process server from the department of public safety's list
11 under section 353C- :

12 (1) For serving any criminal summons, warrant, attachment,
13 or other criminal process, \$30 effective July 1, 2001.
14 This fee is payable to a sheriff, deputy sheriff, or
15 police officer. Service of criminal summons, warrant,
16 attachment, or other criminal process shall be made
17 only by persons authorized to serve criminal summons
18 ~~[in accordance with rules of court].~~

19 (2) For serving any civil summons, warrant, attachment, or
20 other civil process, \$25 effective July 1, 2001.



- 1 (3) For every copy of an attachment and inventory of the
2 property attached, served upon the defendant, \$2.
- 3 (4) For serving any execution, 12 cents for every \$1
4 collected up to \$500, and 7 cents for every \$1 over
5 \$500.
- 6 (5) For serving: subpoena, \$25; and subpoena duces tecum
7 or garnishee summons, \$15 effective July 1, 2001.
- 8 (6) For every mile of travel, more than one, in serving
9 any process, 40 cents; provided that:
 - 10 (A) No allowance shall be made where the serving
11 individual uses a conveyance furnished the
12 serving individual by the State, or any political
13 or municipal subdivision thereof;
 - 14 (B) Where the serving individual serves more than one
15 person in the course of one trip, the serving
16 individual shall not charge, in the aggregate for
17 all services, more than the mileage for the
18 entire trip; and
 - 19 (C) As far as practicable, in order to minimize the
20 mileage fees for the service, the sheriff or
21 [~~ether~~] police chief of the serving police



1 officers, or [~~other person authorized by the~~
2 ~~rules of court,~~] independent civil process
3 servers, where service of process is to be made
4 upon an island other than that upon which is
5 situated the court issuing the process, shall
6 cause the process to be transmitted to the
7 sheriff, deputy sheriff, the chief of police[~~—a~~
8 ~~person authorized by the rules of court, or other~~
9 ~~-serving individual~~], a police officer, or an
10 independent civil process server upon the island
11 of service, who shall make the service upon
12 receipt of the process; and the service shall be
13 valid, notwithstanding that the process may not
14 be addressed to the individual actually making
15 the service or to the individual's superior.

16 In lieu of any fee under this subsection, the fee may be an
17 hourly rate of not less than \$50 per hour agreed upon in advance
18 between the party requesting the service and the sheriff, deputy
19 sheriff, police officer, or [~~other person authorized by the~~
20 ~~rules of court~~] independent civil process server performing the
21 service."



1 SECTION 6. Section 607-8, Hawaii Revised Statutes, is
2 amended by amending the title and subsection (a) to read as
3 follows:

4 "§607-8 Fees of sheriff, deputy sheriff, police officer,
5 serving or levying officer, or [other person authorized by the
6 rules of court in circuit court, intermediate appellate court,
7 or supreme court.] independent civil process server. (a) For
8 all necessary travel in making the service, per mile for every
9 mile more than one...40 cents provided that:

- 10 (1) No allowance shall be made where the serving
11 individual uses a conveyance furnished the serving
12 individual by the State, or any political or municipal
13 subdivision thereof;
- 14 (2) Where the serving individual serves more than one
15 person in the course of one trip, the serving
16 individual shall not charge, in the aggregate for all
17 services more than the mileage for the entire trip;
18 and
- 19 (3) As far as practicable, in order to minimize the
20 mileage fees for the service, the sheriff or [other]
21 chief of police of the serving police officers, or



1 ~~[other person authorized by the rules of court where~~
2 ~~service of process is to be made upon an island other~~
3 ~~than that upon which is situated the court issuing the~~
4 ~~process,]~~ independent civil process server from the
5 department of public safety's list under section
6 353C- shall cause the process to be transmitted to
7 the sheriff, deputy sheriff, the chief of police,
8 ~~[other person authorized by the rules of court, or~~
9 ~~other serving individual]~~ a police officer, or an
10 independent civil process server upon the island of
11 service who shall make the service upon receipt of the
12 process; and the service shall be valid,
13 notwithstanding that the process may not be addressed
14 to the individual actually making the service or to
15 the individual's superior.

16 For serving criminal summons or any other criminal process
17 except a subpoena, for each person served therewith
18 \$30 effective July 1, 2001. Service of
19 criminal summons or any other criminal process shall be made
20 only by persons authorized to serve criminal summons [~~in~~
21 ~~accordance with rules of court]~~.



1 For serving civil summons or any other civil process,
2 except a subpoena or a garnishee summons, for each person
3 served therewith \$25 effective July 1,
4 2001.

5 For serving: subpoena, for each person, \$25; and
6 subpoena duces tecum or garnishee summons, for each person
7 \$15 effective July 1, 2001.

8 For returning as unserved after due and diligent search any
9 process when it has been found that the person to be served has
10 left the State \$5 effective July 1, 2001.

11 For serving any execution or other process for the
12 collection of money, for every dollar collected up
13 to \$1,000 5 cents.

14 And for every dollar over \$1,000 2-1/2 cents.

15 All fees paid to any printer for publishing an
16 advertisement of the sale of any property.

17 For every bill of sale \$2.

18 For executing and acknowledging a deed pursuant to a
19 sale of real estate to be paid by the grantee in the
20 deed..... \$8.

21 For drawing any bond required by law..... \$2.



1 For serving writ of possession or restitution,
2 putting any person entitled into the possession of
3 premises, and removing a tenant pursuant to order of
4 court..... \$25.

5 Together with all necessary expenses incurred by the
6 individual serving the writ, incident to the eviction.

7 For selling any property on an order from the court other
8 than an execution, the same allowance as for service and sales
9 by execution.

10 The fees for service of executions, attachments, and
11 collection of judgments, together with all costs incurred after
12 judgment rendered, not included in the judgment, in all courts
13 of the State, shall be collected in addition to the sum directed
14 to be levied and collected in the writ.

15 In lieu of any fee under this subsection, the fee may be an
16 hourly rate of not less than \$50 per hour agreed upon in advance
17 between the party requesting the service and the sheriff, deputy
18 sheriff, police officer, or ~~[other person authorized by the~~
19 ~~rules of court]~~ independent civil process server performing the
20 service."



1 .SECTION 7. Section 633-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§633-8 Order to show cause. Upon the filing of a
4 complaint with a copy of a lease or rental contract and an
5 affidavit sworn to by the plaintiff or some competent affiant
6 setting forth a statement of facts sufficient to show that the
7 leased or rented personal property has been in the defendant's
8 possession at least fourteen days after the termination of the
9 lease or rental contract, either by passage of time or by reason
10 of any default under the terms and conditions of the lease or
11 rental contract, the court may issue an order directing the
12 defendant to either return the leased or rented personal
13 property to the plaintiff or to appear and show cause for the
14 possession at such time as the court shall direct, but not later
15 than five days from the date of service of the order to show
16 cause. The order to show cause shall also provide that, if the
17 leased or rented personal property is not returned to the
18 plaintiff prior to the hearing, the defendant shall, if
19 reasonably feasible, produce the property at the hearing. If,
20 at the hearing, it is proved to the satisfaction of the court
21 that the plaintiff is entitled to possession of the leased or



1 rented personal property, it shall issue an order directed to
2 the sheriff, deputy sheriff, [~~or other person authorized by the~~
3 ~~rules of court~~] police officer, or independent civil process
4 server from the department of public safety's list under section
5 353C-___ commanding the sheriff, deputy sheriff, [~~or other~~
6 ~~person authorized by the rules of court~~] police officer, or
7 independent civil process server to seize the personal property
8 therein described and to deliver the same to the plaintiff or
9 the plaintiff's agent. Service of the order to show cause shall
10 be as provided by law or rule of court for cases in the district
11 courts, or by registered mail or by certified mail with return
12 receipt showing delivery within the circuit."

13 SECTION 8. Section 634-11, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§634-11 Interpleader; application for order by sheriff**
16 [~~or other person authorized by the rules of court.~~], deputy
17 sheriff, police officer, or independent civil process server.

18 When, in the execution of process against goods and chattels
19 issued by or under the authority of the courts of the State, by
20 reason of claims made to such goods and chattels by assignees of
21 bankrupts and other persons not being the parties against whom



1 such process had issued, whereby the sheriff, deputy sheriffs,
2 [~~other~~] police officers, or [~~persons authorized by the rules of~~
3 ~~court~~] independent civil process servers from the department of
4 public safety's list under section 353C- are exposed to the
5 hazard and expense of actions, any such claim shall be made to
6 any goods or chattels taken or intended to be taken in execution
7 under any such process or to the proceeds or value thereof, it
8 shall be lawful for the court, out of which the execution shall
9 have issued, or any judge thereof, upon application of the
10 sheriff, deputy sheriff, [~~other~~] police officer, or [~~other~~
11 ~~person authorized by the rules of court,~~] independent civil
12 process server made before or after the return of such process,
13 and as well before as after any action brought against the
14 sheriff, deputy sheriff, [~~other~~] police officer, or [~~other~~
15 ~~person authorized by the rules of court,~~] independent civil
16 process server to call before it or the judge by rule, order, or
17 summons, as well the party issuing such process as the party
18 making the claim. Thereupon the court or judge shall, for the
19 adjustment of the claims and the relief and protection of the
20 sheriff, deputy sheriff, [~~other~~] police officer, or [~~other~~
21 ~~person authorized by the rules of court,~~] independent civil



1 process server, make such rules, orders, and decisions as shall
2 appear to be just according to the circumstances of the case.
3 The costs of all such proceedings shall be in the discretion of
4 the court or judge."

5 SECTION 9. Section 634-12, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§634-12 Sale of property seized on execution, when.** When
8 goods or chattels have been seized in execution by the sheriff,
9 deputy sheriff, [~~ether~~] a police officer[~~, or other person~~
10 ~~authorized by the rules of court~~], or an independent civil
11 process server from the department of public safety's list under
12 section 353C- under process of any court, and some third
13 person claims to be entitled under a bill of sale, chattel
14 mortgage, or otherwise, to the goods and chattels by way of
15 security for a debt, the court or a judge may order a sale of
16 the whole or part thereof, upon such terms as to the payment of
17 the whole or part of the secured debt or otherwise as it or the
18 judge shall think fit; and may direct the application of the
19 proceeds of sale in such manner and upon such terms as to the
20 court or judge may seem just."



1 SECTION 10. Section 634-22, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§634-22 Return. In all cases where any process or order
4 of a court is served by any officer of the court or of the
5 police force or the sheriff, deputy sheriff, an independent
6 civil process server from the department of public safety's list
7 under section 353C- , or any investigator appointed and
8 commissioned by the director of commerce and consumer affairs
9 pursuant to section 26-9(j), a record thereof shall be endorsed
10 upon the back of the process, complaint, order, or citation.
11 The record shall state the name of the person served and the
12 time and place of service and shall be signed by the sheriff,
13 deputy sheriff, police officer, independent civil process
14 server, or investigator making the service. If the [~~officer~~]
15 sheriff, deputy sheriff, police officer, independent civil
16 service process server, or investigator fails to make service,
17 the [~~officer,~~] sheriff, deputy sheriff, police officer,
18 independent civil process server, or investigator in like
19 manner, shall endorse the reason for the [~~officer's~~] sheriff,
20 deputy sheriff, police officer, independent civil process
21 server, or investigator's failure and sign this record. When



1 service is made by a person specially appointed by the court, or
2 [~~a person authorized by the rules of court, the person~~] an
3 independent civil process server, that person shall make
4 declaration or affidavit of that service.

5 The record [~~or the~~], declaration, or affidavit shall be
6 prima facie evidence of all it contains, and no further proof
7 thereof shall be required unless either party desires to examine
8 the sheriff, deputy sheriff, police officer [~~or person~~],
9 independent civil process server, or investigator making
10 service, in which case the sheriff, deputy sheriff, police
11 officer [~~or person~~], independent civil process server, or
12 investigator shall be notified to appear for examination."

13 SECTION 11. Section 634-29, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[~~§~~634-29[~~§~~] **In case of attachment, etc., of real**
16 **property.** In all cases of attachment, sequestration, or
17 injunction of real property, the sheriff, deputy sheriff, police
18 officer, or independent civil process server from the department
19 of public safety's list under section 353C- serving the writ
20 shall, in addition to personal delivery of a copy thereof to the
21 defendant, post upon the premises a copy of the process, and a



1 notice of the day and hour when attached, sequestered, or
2 enjoined, and shall also give notice thereof in a newspaper or
3 newspapers suitable for the advertisement of judicial
4 proceedings. But in all cases where a writ of attachment is
5 issued in accordance with chapter 651 relating to attachments,
6 and the defendant in attachment was never a resident of the
7 State or has departed from the State or secretes oneself so that
8 the writ of attachment cannot be personally served upon the
9 defendant, personal service of the writ upon the defendant may
10 be dispensed with. All after-leases, mortgages, sales, devises,
11 assignments, trusts, or other conveyances of the property, until
12 the dissolution of the process, shall be void in law as against
13 the plaintiff in such cases."

14 SECTION 12. Section 651-1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§651-1 General provisions.** (a) This chapter shall apply
17 to circuit and district courts. A judge of any court of record
18 may make any order at chambers which may by the provisions of
19 this chapter be made by the court in term time. When the
20 proceedings are before a district judge, the judge shall be
21 regarded as the clerk of the court for all purposes contemplated



1 herein. The phrase "police officer", as used in this chapter,
2 means the director of public safety or the director's duly
3 authorized representative, any chief of police or subordinate
4 police officer, or ~~[a person authorized by the rules of court.]~~
5 an independent civil process server on the list maintained by
6 the department of public safety pursuant to section 353C- .
7 Nothing in this chapter shall be construed to permit a district
8 judge to issue a writ of attachment to be served out of the
9 circuit in which the judge's court is situated, or to permit an
10 attachment of real estate, or any interest therein, under a writ
11 issued by a district court judge.

12 (b) The department of public safety, the State, and the
13 agencies, officers, and employees of the department of public
14 safety or the State shall not be responsible or liable for the
15 actions of any independent civil process servers on the list
16 maintained by the department of public safety pursuant to
17 section 353C- . The maintenance of the list pursuant to
18 section 353C- shall not create a private cause of action
19 against the department of public safety, the State, or the
20 agencies, officers, and employees of the department of public
21 safety or the State.



1 (c) Nothing in this chapter shall be construed to make an
2 independent civil process server a law enforcement officer,
3 sheriff, or deputy sheriff, or an employee or agent of the
4 department of public safety or the State."

5 SECTION 13. Section 652-1.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Except as provided in subsection (e), any creditor
8 desiring to secure a garnishment process before judgment shall
9 attach the creditor's petition for process, summons, and
10 direction to the following documents:

11 (1) An application, directed to the court to which such
12 action is made returnable, for garnishee process to
13 issue under section 652-1(a);

14 (2) An affidavit sworn to by the creditor or some
15 competent affiant setting forth a statement of facts
16 sufficient to show that probable validity exists to
17 sustain the validity of the creditor's claim;

18 (3) An order that a hearing be held before the court or a
19 judge thereof to determine whether or not the
20 garnishee process should be granted and that notice of
21 such hearing be given to the defendant debtor; and



1 (4) A summons directed to [~~a proper officer~~] the sheriff,
2 deputy sheriff, a police officer, or an independent
3 civil process server from the department of public
4 safety's list under section 353C- commanding the
5 [~~officer~~] sheriff, deputy sheriff, police officer, or
6 independent civil process server to serve upon the
7 debtor at least four days prior to the date of the
8 hearing, pursuant to chapter 634, the application, a
9 true and attested copy of the petition, summons, and
10 direction, the affidavit, and the order and notice of
11 hearing."

12 SECTION 14. Section 652-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§652-2 Garnishee, rights, duties; collection by [~~levying~~
15 ~~officer.~~] sheriff, deputy sheriff, police officer, or
16 independent civil process server. The garnishee shall, when
17 summoned before judgment rendered against [~~his~~] the garnishee's
18 principal, if [~~he~~] the garnishee desires, be admitted to defend
19 [~~his~~] the garnishee's principal in the action.

20 If judgment is rendered in favor of the plaintiff, and
21 likewise in all cases in which the garnishee is summoned after



1 judgment, the garnishee fund, or such part thereof as may be
2 sufficient for that purpose, shall be liable to pay the same.
3 The plaintiff on praying out execution shall be entitled to have
4 included in the execution an order directing the [~~officer~~]
5 sheriff, deputy sheriff, police officer, or independent civil
6 process server from the department of public safety's list under
7 section 353C- serving the same to make demand of the
8 garnishee for the goods and effects of the defendant secured in
9 [~~his~~] the garnishee's hands, whose duty it will be to expose the
10 same to be taken on execution, and also to make demand of the
11 garnishee for the debt or wages secured in [~~his~~] the garnishee's
12 hands or the moneys held by [~~him~~] the garnishee for safekeeping,
13 or such part thereof as may satisfy the judgment. It shall be
14 the duty of the garnishee to pay the same. If the garnishee has
15 in any manner disposed of the goods and effects or does not
16 expose and subject the same to be taken on execution, or if the
17 garnishee does not pay to the [~~officer,~~] sheriff, deputy
18 sheriff, police officer, or independent civil process server
19 when demanded, the debt or wages or moneys held for safekeeping,
20 the garnishee shall be liable to satisfy the judgment out of
21 [~~his~~] the garnishee's own estate, as [~~his~~] the garnishee's own



1 proper debt, if the goods or effects or debt or wages or moneys
2 held for safekeeping, be of sufficient value or amount and, if
3 not, then to the value of the same; provided that every
4 garnishee, whether summoned before or after judgment, shall be
5 allowed to retain or deduct from the goods, effects, and credits
6 of the defendant in [~~his~~] the garnishee's hands at the time of
7 service all demands against the defendant of which [~~he~~] the
8 garnishee could have availed [~~himself~~] the garnishee's self if
9 [~~he~~] the garnishee had not been [~~garnisheed,~~] garnished, whether
10 the same are at the time due or not, and whether by setoff on a
11 trial or by setoff of judgments or executions between [~~himself~~]
12 the garnishee and the defendant, and shall be liable only for
13 the balance after adjustment of all mutual demands between
14 [~~himself~~] the garnishee and the defendant; provided that in such
15 adjustment no demands for unliquidated damages for wrongs or
16 injuries shall be included, and that the judgment shall show the
17 amount of any setoff.

18 No garnishee shall be liable to anyone for the nonpayment
19 of any sum or for the nondelivery of any goods or effects when
20 the garnishee in good faith believes, or has reason to believe,
21 that garnishment or other process affects the same, though such



1 be not the case, but this paragraph shall not supersede section
2 652-9 where the same are applicable."

3 SECTION 15. Section 652-2.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+]~~**§652-2.5**~~[+]~~ **Service on garnishee.** Service of the copy
6 upon the garnishee may be made in any of the manners here
7 described, namely:

- 8 (1) If the garnishee lives or has an office in the
9 district in which process is issued, by the ~~[serving~~
10 ~~officer's]~~ sheriff, deputy sheriff, police officer, or
11 independent civil process server from the department
12 of public safety's list under section 353C- handing
13 a copy to the garnishee in person or leaving it in the
14 garnishee's office in charge of some deputy or clerk
15 or other employees or attache of the office; or
- 16 (2) If the garnishee lives in a district other than that
17 in which the process was issued, by the ~~[serving~~
18 ~~officer's]~~ sheriff, deputy sheriff, police officer, or
19 independent civil process server handing a copy to the
20 garnishee in person, or by mailing it in a sealed
21 envelope, registered or certified, postage prepaid,



1 return receipt requested, and addressed to the
2 garnishee's last known home or business address."

3 SECTION 16. Section 652-2.6, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) In case of service upon the garnishee, the [~~servicing~~
6 ~~officer's~~] certificate of service or, if by mail, a copy of the
7 return receipt provided by the sheriff, deputy sheriff, police
8 officer, or independent civil process server from the department
9 of public safety's list under section 353C- shall be prima
10 facie proof of the service."

11 SECTION 17. Section 654-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§654-2 Bond.** When the plaintiff desires the immediate
14 delivery of the property, the plaintiff shall execute a bond to
15 the defendant in possession of the property, and to all persons
16 having an interest in the property, of such amount and with such
17 sureties as are approved by the court, conditioned that the
18 plaintiff will prosecute the plaintiff's action to judgment
19 without delay, and deliver the property to the defendant in
20 possession or any other person, if such delivery is adjudged,
21 and pay all costs and damages that may be adjudged against the



1 plaintiff. Upon the filing of the verified complaint or
2 affidavit with the bond and a motion for immediate consideration
3 of the matter, the court shall forthwith inquire into the
4 matter, ex parte or otherwise, as in its discretion it
5 determines. If thereupon the court finds that a prima facie
6 claim for relief has been established, it shall issue an order
7 directed to the sheriff, [~~or the~~] sheriff's deputy, [~~or the~~]
8 chief of police, [~~or~~] an authorized police officer of any
9 county[, ~~or a person authorized by the rules of court~~], or an
10 independent civil process server from the department of public
11 safety's list under section 353C-_____ to take the property
12 therein described and deliver the same to the plaintiff.

13 Copies of the verified complaint or affidavit, and, if a
14 bond for immediate seizure has been filed, of the bond, and, if
15 an order for the taking has been issued on an ex parte hearing,
16 of the order, shall forthwith be served upon the defendant in
17 possession and each person having or claiming a possessory
18 interest in the property, in the same manner as is provided for
19 service of summons unless the party to be served has appeared in
20 the action, in which case service may be made in the same manner
21 as is provided for service of papers other than the summons. In



1 a proper case, either before or after issuance of an order for
2 the taking, the required service may be combined with the
3 publication of the summons, in which event the giving of notice
4 of the substance of the proceeding shall be sufficient.

5 Upon the application of any party, the proceeding shall be
6 advanced and assigned for hearing at the earliest possible
7 date."

8 SECTION 18. Section 666-11, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§666-11 Judgment; writ of possession.** If it is proved to
11 the satisfaction of the court that the plaintiff is entitled to
12 the possession of the premises, the plaintiff shall have
13 judgment for possession, and for the plaintiff's costs.
14 Execution shall issue accordingly. The writ of possession shall
15 issue to the sheriff, deputy sheriff, police officer[~~, or other~~
16 ~~person authorized by the rules of court of the circuit where the~~
17 ~~premises are situated~~], or independent civil process server from
18 the department of public safety's list under section 353C- ,
19 commanding the sheriff, deputy sheriff, police officer[~~, or~~
20 ~~other person authorized by the rules of court~~], or independent
21 civil process server to remove all persons from the premises,



1 and to put the plaintiff, or the plaintiff's agent, into the
2 full possession thereof."

3 SECTION 19. Section 666-21, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) If the tenant is unable to comply with the court's
6 order under subsection (a) in paying the required amount of rent
7 to the court, the landlord shall have judgment for possession
8 and execution shall issue accordingly. The writ of possession
9 shall issue to the sheriff, deputy sheriff, police officer[~~7~~
10 ~~other person authorized by the rules of court of the circuit~~
11 ~~where the premises are situated~~], or independent civil process
12 server from the department of public safety's list under section
13 353C- _____, ordering the sheriff, deputy sheriff, police officer[~~7~~
14 ~~or other person authorized by the rules of court~~], or
15 independent civil process server to remove all persons and
16 possessions from the premises, and to put the landlord, or the
17 landlord's agent, into full possession of the premises."

18 SECTION 20. The department of public safety shall convene
19 a working group with the following objectives:



- 1 (1) Defining and delineating the duties and
- 2 responsibilities of process servers under its
- 3 jurisdiction;
- 4 (2) Creating a process of registration for process servers
- 5 in the State;
- 6 (3) Examining the licensing requirements of and
- 7 jurisdictional concerns with the private process
- 8 server industry in the State; and
- 9 (4) Addressing other issues deemed relevant by the working
- 10 group or by the department of public safety.

11 SECTION 21. The working group established under section 20
12 of this Act shall be composed of ten members as follows:

- 13 (1) Two current process servers to be appointed by the
- 14 governor;
- 15 (2) Two current employees of the sheriff division to be
- 16 appointed by the director of public safety;
- 17 (3) Two employees of the judiciary to be appointed by the
- 18 chief justice;
- 19 (4) Two members of the Hawaii state bar association to be
- 20 appointed by the president of the Hawaii state bar
- 21 association;



1 (5) A representative from the professional and vocational
2 licensing division of the department of commerce and
3 consumer affairs appointed by the director of commerce
4 and consumer affairs; and

5 (6) The director of public safety, as an ex officio
6 member, to serve as chair.

7 SECTION 22. Members of the working group shall serve
8 without compensation for their service on the working group.

9 SECTION 23. The working group established by this Act
10 shall meet at least four times, and shall report its findings
11 and recommendations to the legislature no later than twenty days
12 prior to the convening of the regular session of 2014.

13 SECTION 24. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 25. This Act shall take effect upon its approval
16 and shall be repealed on June 30, 2015; provided that:

17 (1) Section 501-154, Hawaii Revised Statutes, in section 2
18 of this Act;

19 (2) Section 603-29, Hawaii Revised Statutes, in section 3
20 of this Act;



- 1 (3) Section 604-6.2, Hawaii Revised Statutes, in section 4
- 2 of this Act;
- 3 (4) Section 607-4(d), Hawaii Revised Statutes, in section
- 4 5 of this Act;
- 5 (5) The title and subsection (a) of section 607-8, Hawaii
- 6 Revised Statutes, in section 6 of this Act;
- 7 (6) Section 633-8, Hawaii Revised Statutes, in section 7
- 8 of this Act;
- 9 (7) Section 634-11, Hawaii Revised Statutes, in section 8
- 10 of this Act;
- 11 (8) Section 634-12, Hawaii Revised Statutes, in section 9
- 12 of this Act;
- 13 (9) Section 634-22, Hawaii Revised Statutes, in section 10
- 14 of this Act;
- 15 (10) Section 634-29, Hawaii Revised Statutes, in section 11
- 16 of this Act;
- 17 (11) Section 651-1, Hawaii Revised Statutes, in section 12
- 18 of this Act;
- 19 (12) Section 652-1.5(a), Hawaii Revised Statutes, in
- 20 section 13 of this Act;



- 1 (13) Section 652-2, Hawaii Revised Statutes, in section 14
2 of this Act;
- 3 (14) Section 652-2.5, Hawaii Revised Statutes, in section
4 15 of this Act;
- 5 (15) Section 652-2.6(a), Hawaii Revised Statutes, in
6 section 16 of this Act;
- 7 (16) Section 654-2, Hawaii Revised Statutes, in section 17
8 of this Act;
- 9 (17) Section 666-11, Hawaii Revised Statutes, in section 18
10 of this Act; and
- 11 (18) Section 666-21(b), Hawaii Revised Statutes, in section
12 19 of this Act,
- 13 shall be reenacted in the form in which they read on the day
14 prior to the effective date of this Act.



Report Title:

Department of Public Safety; Judiciary; Service of Process

Description:

Specifies the persons authorized to serve civil legal process. Mandates the Director of Public Safety to maintain a list of independent civil process servers. Shields the State and the Department of Public Safety from liability arising from the acts of independent civil process servers. Establishes a working group to consider various aspects how process servers should be dealt with in the State. (HB951 CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

