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# 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 may maintain a list of independent civil  
6 process servers to process:

7           (1) Orders to show cause pursuant to chapters 603 and 604;

8           (2) Garnishment pursuant to chapter 652;

9           (3) Writs of replevin and attachment pursuant to chapter  
10           634;

11           (4) Writs of possession pursuant to chapters 501 and 666;

12           and

13           (5) Orders for examination pursuant to chapter 636.

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

17           (1) Is serving a criminal sentence;



1       (2) Has been convicted of a crime within the previous ten  
2       years;

3       (3) Is required to register as a sex offender; or

4       (4) Is subject to any other legal restriction, including a  
5       temporary restraining order, that prevents the person  
6       from serving process.

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

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

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

18      "**§501-154 Writ of possession, service, time limit for**  
19      **registration.** When in any action in the nature of an action of  
20      ejectment an execution or writ of possession has been issued and  
21      served by the [~~officer,~~] sheriff, deputy sheriff, police  
22      officer, or independent civil process server from the department



1 of public safety's list under section 353C- , the [~~officer~~]  
 2 sheriff, deputy sheriff, police officer, or independent civil  
 3 process server shall cause a copy of the writ, with a return of  
 4 the [~~officer's~~] doings of the sheriff, deputy sheriff, police  
 5 officer, or independent civil process server thereon, to be  
 6 filed and registered within three months after the service and  
 7 before the return of the writ into the clerk's office. The  
 8 plaintiff, in case the judgment was that the plaintiff was  
 9 entitled to an estate in fee simple in the demanded premises, or  
 10 in any part thereof, and for which execution or writ of  
 11 possession issued, is thereupon entitled to the entry of a new  
 12 certificate of title."

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

15 "**§603-29 Order to show cause.** Whenever a complaint has  
 16 been filed in circuit court alleging leased or rented personal  
 17 property the value of which is \$5,000 or more, has been retained  
 18 by the defendant fourteen days after the termination of the  
 19 lease or rental contract, either by passage of time or by reason  
 20 of any default under the terms and conditions of the lease or  
 21 rental contract, the plaintiff may petition the court for an  
 22 order to show cause.



1           Upon the filing of the petition with a copy of the lease or  
2 rental contract and an affidavit sworn to by the plaintiff or  
3 some competent affiant setting forth a statement of facts  
4 sufficient to show the termination of the lease or rental  
5 contract, the court may issue an order directing the defendant  
6 to either return the leased or rented personal property to the  
7 plaintiff or to appear and show cause for the possession at such  
8 time as the court shall direct but not later than ten days from  
9 the date of service of the order to show cause. The order to  
10 show cause shall also provide that if the leased or rented  
11 personal property is not returned to the plaintiff prior to the  
12 hearing, the defendant shall, if reasonably feasible, produce  
13 the property at the hearing. If, at the hearing, it is proved  
14 to the satisfaction of the court that the plaintiff is entitled  
15 to possession of the leased or rented personal property, it  
16 shall issue an order directed to the sheriff, deputy sheriff,  
17 or [~~person authorized by the rules of court,~~] police officer,  
18 commanding the sheriff, deputy sheriff, or [~~other person~~  
19 ~~authorized by the rules of court~~] police officer to seize the  
20 personal property therein described and to deliver the same to  
21 the plaintiff or the plaintiff's agent. Service of the order to  
22 show cause shall be as provided by law or rule of court for



1 cases in the circuit courts, or by registered mail or by  
2 certified mail with return receipt showing delivery within the  
3 circuit."

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

6 "**§604-6.2 Order to show cause.** Upon the filing of a  
7 complaint with a copy of a lease or rental contract and an  
8 affidavit sworn to by the plaintiff or some competent affiant  
9 setting forth a statement of facts sufficient to show that the  
10 leased or rented personal property has been in the defendant's  
11 possession at least fourteen days after the termination of the  
12 lease or rental contract, either by passage of time or by reason  
13 of any default under the terms and conditions of the lease or  
14 rental contract, the court may issue an order directing the  
15 defendant to either return the leased or rented personal  
16 property to the plaintiff or to appear and show cause for the  
17 possession at such time as the court shall direct, but not later  
18 than ten days from the date of service of the order to show  
19 cause. The order to show cause shall also provide that, if the  
20 leased or rented personal property is not returned to the  
21 plaintiff prior to the hearing, the defendant shall, if  
22 reasonably feasible, produce the property at the hearing. If,



1 at the hearing, it is proved to the satisfaction of the court  
 2 that the plaintiff is entitled to possession of the leased or  
 3 rented personal property, it shall issue an order directed to  
 4 the sheriff, deputy sheriff, or [~~other person authorized by the~~  
 5 ~~rules of court~~] police officer commanding the sheriff, deputy  
 6 sheriff, or [~~a person authorized by the rules of court~~] police  
 7 officer to seize the personal property therein described and to  
 8 deliver the same to the plaintiff or the plaintiff's agent.  
 9 Service of the order to show cause shall be as provided by law  
 10 or rule of court for cases in the district courts, or by  
 11 registered mail or by certified mail with return receipt showing  
 12 delivery within the State."

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

15 "(d) Fees of sheriff, deputy sheriff, police officer, or  
 16 [~~other person authorized by the rules of court~~] independent  
 17 civil process server from the department of public safety's list  
 18 under section 353C- \_\_\_\_\_ :

19 (1) For serving any criminal summons, warrant, attachment,  
 20 or other criminal process, \$30 effective July 1, 2001.  
 21 This fee is payable to a sheriff, deputy sheriff, or  
 22 police officer. Service of criminal summons, warrant,



1 attachment, or other criminal process shall be made  
2 only by persons authorized to serve criminal summons  
3 [~~in accordance with rules of court~~].

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

6 (3) For every copy of an attachment and inventory of the  
7 property attached, served upon the defendant, \$2.

8 (4) For serving any execution, 12 cents for every \$1  
9 collected up to \$500, and 7 cents for every \$1 over  
10 \$500.

11 (5) For serving: subpoena, \$25; and subpoena duces tecum  
12 or garnishee summons, \$15 effective July 1, 2001.

13 (6) For every mile of travel, more than one, in serving  
14 any process, 40 cents; provided that:

15 (A) No allowance shall be made where the serving  
16 individual uses a conveyance furnished the  
17 serving individual by the State, or any political  
18 or municipal subdivision thereof;

19 (B) Where the serving individual serves more than one  
20 person in the course of one trip, the serving  
21 individual shall not charge, in the aggregate for



1 all services, more than the mileage for the  
2 entire trip; and  
3 (C) As far as practicable, in order to minimize the  
4 mileage fees for the service, the sheriff or  
5 ~~[either]~~ police chief of the serving police  
6 officers, or ~~[other person authorized by the~~  
7 ~~rules of court,]~~ independent civil process  
8 servers, where service of process is to be made  
9 upon an island other than that upon which is  
10 situated the court issuing the process, shall  
11 cause the process to be transmitted to the  
12 sheriff, deputy sheriff, the chief of police~~[-a~~  
13 ~~person authorized by the rules of court, or other~~  
14 ~~serving individual]~~, police officer, or  
15 independent civil process server upon the island  
16 of service, who shall make the service upon  
17 receipt of the process; and the service shall be  
18 valid, notwithstanding that the process may not  
19 be addressed to the individual actually making  
20 the service or to the individual's superior.

21 In lieu of any fee under this subsection, the fee may be an  
22 hourly rate of not less than \$50 per hour agreed upon in advance





1 between the party requesting the service and the sheriff, deputy  
2 sheriff, police officer, or [~~other person authorized by the~~  
3 ~~rules of court~~] independent civil process server performing the  
4 service."

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

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

14 (1) No allowance shall be made where the serving  
15 individual uses a conveyance furnished the serving  
16 individual by the State, or any political or municipal  
17 subdivision thereof;

18 (2) Where the serving individual serves more than one  
19 person in the course of one trip, the serving  
20 individual shall not charge, in the aggregate for all  
21 services more than the mileage for the entire trip;  
22 and



1 (3) As far as practicable, in order to minimize the  
2 mileage fees for the service, the sheriff or ~~[other]~~  
3 chief of police of the serving police officers, or  
4 ~~[other person authorized by the rules of court where~~  
5 ~~service of process is to be made upon an island other~~  
6 ~~than that upon which is situated the court issuing the~~  
7 ~~process,]~~ independent civil process server from the  
8 department of public safety's list under section  
9 353C-\_\_\_\_\_ shall cause the process to be transmitted  
10 to the sheriff, deputy sheriff, the chief of police,  
11 ~~[other person authorized by the rules of court, or]~~  
12 other serving ~~[individual]~~ police officers, or  
13 independent civil process servers upon the island of  
14 service who shall make the service upon receipt of the  
15 process; and the service shall be valid,  
16 notwithstanding that the process may not be addressed  
17 to the individual actually making the service or to  
18 the individual's superior.

19 For serving criminal summons or any other criminal process  
20 except a subpoena, for each person served therewith

21 ..... \$30 effective July 1, 2001. Service of  
22 criminal summons or any other criminal process shall be made



1 only by persons authorized to serve criminal summons [~~in~~  
2 ~~accordance with rules of court~~].

3 For serving civil summons or any other civil process,  
4 except a subpoena or a garnishee summons, for each person  
5 served therewith ..... \$25 effective July 1,  
6 2001.

7 For serving: subpoena, for each person, \$25; and  
8 subpoena duces tecum or garnishee summons, for each person  
9 ..... \$15 effective July 1, 2001.

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

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

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

17 All fees paid to any printer for publishing an  
18 advertisement of the sale of any property.

19 For every bill of sale ..... \$2.

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



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

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

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

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

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

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 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  
22 rented personal property, it shall issue an order directed to



1 the sheriff, deputy sheriff, or [~~other person authorized by the~~  
2 ~~rules of court~~] police officer, commanding the sheriff, deputy  
3 sheriff, or [~~other person authorized by the rules of court~~]  
4 police officer to seize the personal property therein described  
5 and to deliver the same to the plaintiff or the plaintiff's  
6 agent. Service of the order to show cause shall be as provided  
7 by law or rule of court for cases in the district courts, or by  
8 registered mail or by certified mail with return receipt showing  
9 delivery within the circuit."

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

12 "**§634-11 Interpleader; application for order by sheriff**  
13 [~~or other person authorized by the rules of court.~~], police  
14 officer, or independent civil process server. When, in the  
15 execution of process against goods and chattels issued by or  
16 under the authority of the courts of the State, by reason of  
17 claims made to such goods and chattels by assignees of bankrupts  
18 and other persons not being the parties against whom such  
19 process had issued, whereby the sheriff, deputy sheriffs[~~-~~  
20 ~~other~~] police officers, or [~~persons authorized by the rules of~~  
21 ~~court~~] independent civil process servers from the department of  
22 public safety's list under section 353C- are exposed to the



1 hazard and expense of actions, any such claim shall be made to  
2 any goods or chattels taken or intended to be taken in execution  
3 under any such process or to the proceeds or value thereof, it  
4 shall be lawful for the court, out of which the execution shall  
5 have issued, or any judge thereof, upon application of the  
6 sheriff, deputy sheriff, [~~either~~] police officer, or [~~either~~  
7 ~~person authorized by the rules of court,~~] independent civil  
8 process server made before or after the return of such process,  
9 and as well before as after any action brought against the  
10 sheriff, deputy sheriff, [~~either~~] police officer, or [~~either~~  
11 ~~person authorized by the rules of court,~~] independent civil  
12 process server to call before it or the judge by rule, order, or  
13 summons, as well the party issuing such process as the party  
14 making the claim. Thereupon the court or judge shall, for the  
15 adjustment of the claims and the relief and protection of the  
16 sheriff, deputy sheriff, [~~either~~] police officer, or [~~either~~  
17 ~~person authorized by the rules of court,~~] independent civil  
18 process server, make such rules, orders, and decisions as shall  
19 appear to be just according to the circumstances of the case.  
20 The costs of all such proceedings shall be in the discretion of  
21 the court or judge."



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

3 "**§634-12 Sale of property seized on execution, when.** When  
4 goods or chattels have been seized in execution by the sheriff,  
5 deputy sheriff, [~~ether~~] or police officer[~~, or other person~~  
6 ~~authorized by the rules of court~~], under process of any court,  
7 and some third person claims to be entitled under a bill of  
8 sale, chattel mortgage, or otherwise, to the goods and chattels  
9 by way of security for a debt, the court or a judge may order a  
10 sale of the whole or part thereof, upon such terms as to the  
11 payment of the whole or part of the secured debt or otherwise as  
12 it or the judge shall think fit; and may direct the application  
13 of the proceeds of sale in such manner and upon such terms as to  
14 the court or judge may seem just."

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

17 "**§634-22 Return.** In all cases where any process or order  
18 of a court is served by any officer of the court or of the  
19 police force or the sheriff, deputy sheriff, or independent  
20 civil process server from the department of public safety's list  
21 under section 353C- , or any investigator appointed and  
22 commissioned by the director of commerce and consumer affairs





1 pursuant to section 26-9(j), a record thereof shall be endorsed  
2 upon the back of the process, complaint, order, or citation.  
3 The record shall state the name of the person served and the  
4 time and place of service and shall be signed by the sheriff,  
5 deputy sheriff, police officer, or independent civil process  
6 server making the service. If the sheriff, deputy sheriff,  
7 police officer fails to make service, the [~~officer,~~] sheriff,  
8 deputy sheriff, or police officer in like manner, shall endorse  
9 the reason for the sheriff, deputy sheriff, or police officer's  
10 failure and sign this record. When service is made by [~~a person~~  
11 ~~specially appointed by the court, or a person authorized by the~~  
12 ~~rules of court, the person]~~ an independent civil process server,  
13 the independent civil process server shall make affidavit of  
14 that service.

15 The record or the affidavit shall be prima facie evidence  
16 of all it contains, and no further proof thereof shall be  
17 required unless either party desires to examine the sheriff,  
18 deputy sheriff, police officer [~~or person~~], or independent civil  
19 process server making service, in which case the sheriff, deputy  
20 sheriff, police officer [~~or person~~], or independent civil  
21 process server shall be notified to appear for examination."



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

3 " ~~§~~634-29 ~~§~~ In case of attachment, etc., of real  
4 property. In all cases of attachment, sequestration, or  
5 injunction of real property, the sheriff, deputy sheriff, police  
6 officer, or independent civil process server from the department  
7 of public safety's list under section 353C- serving the writ  
8 shall, in addition to personal delivery of a copy thereof to the  
9 defendant, post upon the premises a copy of the process, and a  
10 notice of the day and hour when attached, sequestered, or  
11 enjoined, and shall also give notice thereof in a newspaper or  
12 newspapers suitable for the advertisement of judicial  
13 proceedings. But in all cases where a writ of attachment is  
14 issued in accordance with chapter 651 relating to attachments,  
15 and the defendant in attachment was never a resident of the  
16 State or has departed from the State or secretes oneself so that  
17 the writ of attachment cannot be personally served upon the  
18 defendant, personal service of the writ upon the defendant may  
19 be dispensed with. All after-leases, mortgages, sales, devises,  
20 assignments, trusts, or other conveyances of the property, until  
21 the dissolution of the process, shall be void in law as against  
22 the plaintiff in such cases."



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

3 "§651-1 General provisions. This chapter shall apply to  
4 circuit and district courts. A judge of any court of record may  
5 make any order at chambers which may by the provisions of this  
6 chapter be made by the court in term time. When the proceedings  
7 are before a district judge, the judge shall be regarded as the  
8 clerk of the court for all purposes contemplated herein. The  
9 phrase "police officer", as used in this chapter, means the  
10 director of public safety or the director's duly authorized  
11 representative[~~7~~] or any chief of police or subordinate police  
12 officer[~~7~~, ~~or a person authorized by the rules of court~~].  
13 Nothing in this chapter shall be construed to permit a district  
14 judge to issue a writ of attachment to be served out of the  
15 circuit in which the judge's court is situated, or to permit an  
16 attachment of real estate, or any interest therein, under a writ  
17 issued by a district court judge."

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

20 "(a) Except as provided in subsection (e), any creditor  
21 desiring to secure a garnishment process before judgment shall



1 attach the creditor's petition for process, summons, and  
2 direction to the following documents:

- 3 (1) An application, directed to the court to which such  
4 action is made returnable, for garnishee process to  
5 issue under section 652-1(a);
- 6 (2) An affidavit sworn to by the creditor or some  
7 competent affiant setting forth a statement of facts  
8 sufficient to show that probable validity exists to  
9 sustain the validity of the creditor's claim;
- 10 (3) An order that a hearing be held before the court or a  
11 judge thereof to determine whether or not the  
12 garnishee process should be granted and that notice of  
13 such hearing be given to the defendant debtor;
- 14 (4) A summons directed to [~~a proper officer~~] the sheriff,  
15 deputy sheriff, or police officer commanding the  
16 [~~officer~~] sheriff, deputy sheriff, police officer, or  
17 independent civil process server from the department  
18 of public safety's list under section 353C- to  
19 serve upon the debtor at least four days prior to the  
20 date of the hearing, pursuant to chapter 634, the  
21 application, a true and attested copy of the petition,



1           summons, and direction, the affidavit, and the order  
2           and notice of hearing."

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

5           "**§652-2 Garnishee, rights, duties; collection by [~~levying~~**  
6 **~~officer.~~ sheriff, deputy sheriff, or police officer.** The  
7 garnishee shall, when summoned before judgment rendered against  
8 his principal, if he desires, be admitted to defend his  
9 principal in the action.

10           If judgment is rendered in favor of the plaintiff, and  
11 likewise in all cases in which the garnishee is summoned after  
12 judgment, the garnishee fund, or such part thereof as may be  
13 sufficient for that purpose, shall be liable to pay the same.  
14 The plaintiff on praying out execution shall be entitled to have  
15 included in the execution an order directing the [~~officer~~]  
16 sheriff, deputy sheriff, or police officer serving the same to  
17 make demand of the garnishee for the goods and effects of the  
18 defendant secured in his hands, whose duty it will be to expose  
19 the same to be taken on execution, and also to make demand of  
20 the garnishee for the debt or wages secured in his hands or the  
21 moneys held by him for safekeeping, or such part thereof as may  
22 satisfy the judgment. It shall be the duty of the garnishee to



1 pay the same. If the garnishee has in any manner disposed of  
2 the goods and effects or does not expose and subject the same to  
3 be taken on execution, or if the garnishee does not pay to the  
4 [~~officer,~~] sheriff, deputy sheriff, or police officer when  
5 demanded, the debt or wages or moneys held for safekeeping, the  
6 garnishee shall be liable to satisfy the judgment out of [~~his~~]  
7 the garnishee's own estate, as [~~his~~] the garnishee's own proper  
8 debt, if the goods or effects or debt or wages or moneys held  
9 for safekeeping, be of sufficient value or amount and, if not,  
10 then to the value of the same; provided that every garnishee,  
11 whether summoned before or after judgment, shall be allowed to  
12 retain or deduct from the goods, effects, and credits of the  
13 defendant in [~~his~~] the garnishee's hands at the time of service  
14 all demands against the defendant of which [~~he~~] the garnishee  
15 could have availed [~~himself~~] the garnishee's self if [~~he~~] the  
16 garnishee had not been garnisheed, whether the same are at the  
17 time due or not, and whether by setoff on a trial or by setoff  
18 of judgments or executions between [~~himself~~] the garnishee and  
19 the defendant, and shall be liable only for the balance after  
20 adjustment of all mutual demands between [~~himself~~] the garnishee  
21 and the defendant; provided that in such adjustment no demands  
22 for unliquidated damages for wrongs or injuries shall be



1 included, and that the judgment shall show the amount of any  
2 setoff.

3 No garnishee shall be liable to anyone for the nonpayment  
4 of any sum or for the nondelivery of any goods or effects when  
5 the garnishee in good faith believes, or has reason to believe,  
6 that garnishment or other process affects the same, though such  
7 be not the case, but this paragraph shall not supersede section  
8 652-9 where the same are applicable."

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

11 "[~~+~~]**\$652-2.5**[+] **Service on garnishee.** Service of the copy  
12 upon the garnishee may be made in any of the manners here  
13 described, namely:

- 14 (1) If the garnishee lives or has an office in the
- 15 district in which process is issued, by the [~~servicing~~
- 16 ~~officer's~~] sheriff, deputy sheriff, police officer, or
- 17 independent civil process server from the department
- 18 of public safety's list under section 353C-
- 19 handing a copy to the garnishee in person or leaving
- 20 it in the garnishee's office in charge of some deputy
- 21 or clerk or other employees or attache of the office;
- 22 or



1 (2) If the garnishee lives in a district other than that  
 2 in which the process was issued, by the [~~servicing~~  
 3 ~~officer's~~] sheriff, deputy sheriff, police officer, or  
 4 independent civil process server handing a copy to the  
 5 garnishee in person, or by mailing it in a sealed  
 6 envelope, registered or certified, postage prepaid,  
 7 return receipt requested, and addressed to the  
 8 garnishee's last known home or business address."

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

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

17 SECTION 17. Section 652-5, Hawaii Revised Statutes, is  
 18 amended to read as follows:

19 "**§652-5 Successive sequestration of wages, upon change of**  
 20 **employment.** Whenever any judgment debtor has left the employ of  
 21 any garnishee, against whom an order has been duly issued,  
 22 before the full amount of the judgment has been paid, and has





1 entered the employment of some other person, or of the State, or  
2 any political subdivision thereof, then the judgment creditor  
3 may sequester any wages due the judgment debtor from the new  
4 employer by filing with such person, or the respective  
5 government comptroller or other [~~officer~~] official a certified  
6 copy of the judgment and an affidavit of the judgment creditor,  
7 showing the amount remaining due and unpaid on account of the  
8 judgment.

9       Thereafter, the new garnishee shall proceed to pay the same  
10 percentages of wages as required in an original garnishment, on  
11 the balance of the judgment, from week to week or month to  
12 month, until the balance due, with legal interest, is fully  
13 paid; or until such employment of the judgment debtor ceases."

14       SECTION 18. Section 654-2, Hawaii Revised Statutes, is  
15 amended to read as follows:

16       "**§654-2 Bond.** When the plaintiff desires the immediate  
17 delivery of the property, the plaintiff shall execute a bond to  
18 the defendant in possession of the property, and to all persons  
19 having an interest in the property, of such amount and with such  
20 sureties as are approved by the court, conditioned that the  
21 plaintiff will prosecute the plaintiff's action to judgment  
22 without delay, and deliver the property to the defendant in



1 possession or any other person, if such delivery is adjudged,  
2 and pay all costs and damages that may be adjudged against the  
3 plaintiff. Upon the filing of the verified complaint or  
4 affidavit with the bond and a motion for immediate consideration  
5 of the matter, the court shall forthwith inquire into the  
6 matter, ex parte or otherwise, as in its discretion it  
7 determines. If thereupon the court finds that a prima facie  
8 claim for relief has been established, it shall issue an order  
9 directed to the sheriff, or the sheriff's deputy, or the chief  
10 of police, or an authorized police officer of any county [~~or a~~  
11 ~~person authorized by the rules of court~~], 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  
22 a proper case, either before or after issuance of an order for



1 the taking, the required service may be combined with the  
2 publication of the summons, in which event the giving of notice  
3 of the substance of the proceeding shall be sufficient.

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

7 SECTION 19. Section 666-11, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§666-11 Judgment; writ of possession.** If it is proved to  
10 the satisfaction of the court that the plaintiff is entitled to  
11 the possession of the premises, the plaintiff shall have  
12 judgment for possession, and for the plaintiff's costs.  
13 Execution shall issue accordingly. The writ of possession shall  
14 issue to the sheriff, deputy sheriff, police officer[~~, or other~~  
15 ~~person authorized by the rules of court of the circuit where the~~  
16 ~~premises are situated~~], or independent civil process server from  
17 the department of public safety's list under section 353C- ,  
18 commanding the sheriff, deputy sheriff, police officer[~~, or~~  
19 ~~other person authorized by the rules of court~~], or independent  
20 civil process server to remove all persons from the premises,  
21 and to put the plaintiff, or the plaintiff's agent, into the  
22 full possession thereof."



1 SECTION 20. Section 666-21, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

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

16 SECTION 21. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 22. This Act shall take effect upon its approval  
19 and shall be repealed on June 30, 2015; provided that:

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



- 1           (2) Section 603-29, Hawaii Revised Statutes, in section 3
- 2                   of this Act;
- 3           (3) Section 604-6.2, Hawaii Revised Statutes, in section 4
- 4                   of this Act;
- 5           (4) Subsection (d) of 607-4, Hawaii Revised Statutes, in
- 6                   section 5 of this Act;
- 7           (5) The title and subsection (a) of 607-8, Hawaii Revised
- 8                   Statutes, in section 6 of this Act;
- 9           (6) Section 633-8, Hawaii Revised Statutes, in section 7
- 10                  of this Act;
- 11           (7) Section 634-11, Hawaii Revised Statutes, in section 8
- 12                  of this Act;
- 13           (8) Section 634-12, Hawaii Revised Statutes, in section 9
- 14                  of this Act;
- 15           (9) Section 634-22, Hawaii Revised Statutes, in section 10
- 16                  of this Act;
- 17           (10) Section 634-29, Hawaii Revised Statutes, in section 11
- 18                  of this Act;
- 19           (11) Section 651-1, Hawaii Revised Statutes, in section 12
- 20                  of this Act;
- 21           (12) Subsection (a) of 652-1.5, Hawaii Revised Statutes, in
- 22                  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) Subsection (a) of 652-2.6, Hawaii Revised Statutes, in
- 6 section 16 of this Act;
- 7 (16) Section 652-5, Hawaii Revised Statutes, in section 17
- 8 of this Act;
- 9 (17) Section 654-2, Hawaii Revised Statutes, in section 18
- 10 of this Act; and
- 11 (18) Section 666-11, Hawaii Revised Statutes, in section 19
- 12 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 legal process. Authorizes the Director of Public Safety to maintain a list of independent process servers. Shields the State and the Department of Public Safety from liability arising from the acts of independent process servers. (HB951 HD1)

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

