
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 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 ~~[ether]~~ 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 to
10 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.~~], deputy
14 sheriff, police officer, or independent civil process server.

15 When, in the execution of process against goods and chattels
16 issued by or under the authority of the courts of the State, by
17 reason of claims made to such goods and chattels by assignees of
18 bankrupts and other persons not being the parties against whom
19 such 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, or
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[~~, 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- handing
19 a copy to the garnishee in person or leaving it in the
20 garnishee's office in charge of some deputy or clerk
21 or other employees or attache of the office; or



1 (2) If the garnishee lives in a district other than that
 2 in which the process was issued, by the [~~erving~~
 3 ~~offieer'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 [~~erving~~
 12 ~~offieer'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 officer~~[,~~
12 ~~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) Section 607-4(d), Hawaii Revised Statutes, in section
- 6 5 of this Act;
- 7 (5) The title and subsection (a) of section 607-8, Hawaii
- 8 Revised 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) Section 652-1.5(a), 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) Section 652-2.6(a), 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;
- 11 (18) Section 666-11, Hawaii Revised Statutes, in section 19
- 12 of this Act; and
- 13 (19) Section 666-21(b), Hawaii Revised Statutes, in section
- 14 20 of this Act,
- 15 shall be reenacted in the form in which they read on the day
- 16 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. Mandates 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. (SD1)

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

