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## A BILL FOR AN ACT

RELATING TO DISTRICT COURT SMALL CLAIMS.

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

1           SECTION 1. The purpose of this Act is to give to the small  
2 claims division of the district court the exclusive jurisdiction  
3 over cases in which the amount claimed is \$1,000 or less and to  
4 make clarifying and housekeeping amendments.

5           SECTION 2. Section 633-27, Hawaii Revised Statutes, is  
6 amended to read as follows:

7           "§633-27 District courts; powers. (a) All district  
8 courts, except as otherwise provided, shall exercise  
9 jurisdiction conferred by this chapter, and while sitting in the  
10 exercise of that jurisdiction, shall be known and referred to as  
11 the small claims division of the district court; provided that  
12 the jurisdiction of the court when sitting as a small claims  
13 division of the district court shall be confined to:

14           (1) Cases for the recovery of money [~~only~~] where the  
15 amount claimed is more than \$1,000 but does not exceed  
16 \$5,000 exclusive of interest and costs, except as  
17 provided by section 633-30;



1        (2)    Cases for the recovery of money where the amount  
2                    claimed is \$1,000 or less, exclusive of interest and  
3                    costs;

4        [~~(2)~~] (3)    Cases involving disagreement between landlord and  
5                    tenant about the security deposit in a residential  
6                    landlord-tenant relationship; and

7        [~~(3)~~] (4)    Cases for the return of [~~leased or rented~~]  
8                    personal property worth [~~less than~~] \$5,000 [~~where the~~  
9                    ~~amount claimed owed for that lease or rental is less~~  
10                   ~~than \$5,000 exclusive of interest and costs.~~] or less.

11        (b)    This chapter shall not abridge or affect the  
12 jurisdiction of the district courts under paragraphs (1) and  
13 [~~(3)~~] (4) of subsection (a) to determine cases under the  
14 ordinary procedures of the court, it being optional with the  
15 plaintiff in the cases to elect the procedure of the small  
16 claims division of the district court or the ordinary  
17 procedures, as provided by rule of court.

18        (c)    No case filed in the small claims division [~~after~~  
19 ~~December 31, 1991,~~] shall be removed from the small claims  
20 division to be heard under the ordinary procedures of the  
21 district court unless the removal is agreed to by the plaintiff.



1        (d) In cases arising under [~~paragraph~~] paragraphs (2) [~~7~~]  
2        or (3) of subsection (a), the jurisdiction of the small claims  
3        division of the district court shall be exclusive; provided that  
4        the district court, having jurisdiction over a civil action  
5        involving [~~summary possession,~~] a residential landlord-tenant  
6        relationship, shall have concurrent jurisdiction with the small  
7        claims division of the district court over any security deposit  
8        dispute [~~between landlord and tenant in a residential landlord-~~  
9        ~~tenant relationship~~]. [~~This subsection~~] Subsections (a) to (c)  
10       and this subsection shall not abrogate or supersede sections  
11       604-5, 633-30, and 633-31.

12       [~~(b)~~] (e) Actions shall be commenced in the small claims  
13       division of the district court of the judicial circuit in which  
14       the defendant or a majority of the defendants reside or the  
15       claim for relief arose, unless service cannot be made on all of  
16       the defendants in that circuit, in which case action may be  
17       commenced in any circuit in which all of the defendants can be  
18       served; provided that actions arising under [~~paragraph (2) of~~]  
19       subsection (a) (3) [~~of this section~~] shall be commenced in the  
20       circuit wherein the rental premises are situated.



1           ~~[(e)]~~ (f) The small claims division of the district court  
2 may grant monetary relief and equitable relief except that:

3           (1) Monetary relief shall not include punitive damages;  
4                           and

5           (2) Except as specifically provided in section 633-8,  
6                           equitable relief shall be granted only as between  
7                           parties to a landlord-tenant disagreement pursuant to  
8                           chapter 521, and shall be limited to orders to repair,  
9                           replace, refund, reform, and rescind.

10           ~~[(d)]~~ (g) Class actions are prohibited in the small claims  
11 division of the district court."

12           SECTION 3. Section 633-28, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14           "(a) Actions shall be commenced and conducted in the small  
15 claims division of the district court as provided by the rules  
16 of court. The clerk of the court, at the request of an  
17 individual, shall prepare the papers required to be filed in an  
18 action in the court, but the clerk's services in the preparation  
19 of these papers shall not be available to a corporation,  
20 partnership, or association, or to any individual  
21 proprietorship. The mode of service shall be:



1           (1) As provided by law or rule of court for cases in the  
2           district courts; provided that for any small claims  
3           action, service may be made by one of the parties to  
4           the action by means of personal service to the other  
5           parties, on the condition that:

6           (A) The party being served signs that party's name to  
7           indicate actual receipt of service; or

8           (B) A competent witness, who is not an employee,  
9           family member, or agent of the plaintiff appears  
10          at a hearing on the matter or provides a  
11          notarized affidavit testifying that personal  
12          service on the party sought to be served was  
13          accomplished in the witness' presence;

14          (2) As to actions arising under paragraphs (1), (2), and  
15          [~~(3)~~] (4) of section 633-27(a), by registered mail or  
16          by certified mail with return receipt signed by the  
17          addressee showing delivery within the circuit; or

18          (3) As to actions arising under paragraph [~~(2)~~] (3) of  
19          section 633-27(a), by registered mail or by certified  
20          mail with return receipt signed by the addressee



1           showing delivery at any place within or without the  
2           State.

3 There shall be no appeal from a judgment of the small claims  
4 division, but the court, sitting as the small claims division,  
5 may alter or set aside any judgment as provided by the rules of  
6 court."

7           SECTION 4. Section 633-30, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§633-30 Counterclaim; retention of jurisdiction.** When  
10 the limit of the district court as provided by section 633-27 is  
11 exceeded in a counterclaim but within the jurisdictional limit  
12 of the court as provided by section 604-5, the action shall  
13 nevertheless remain in the small claims division of the district  
14 court and be tried therein in its entirety [~~; provided that~~],  
15 unless removal to be heard under the ordinary procedures of the  
16 district court is requested by the plaintiff. In addition, the  
17 district court having jurisdiction over a civil action involving  
18 [~~summary possession~~] a residential landlord-tenant relationship  
19 shall have concurrent jurisdiction with the small claims  
20 division of the district court over any security deposit dispute



1 ~~[between landlord and tenant in a residential landlord tenant~~  
2 ~~relationship]."~~

3 SECTION 5. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

6 SECTION 6. Statutory material to be repealed is bracketed  
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect on January 1, 2017.

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INTRODUCED BY:



BY REQUEST

JAN 20 2016



# H.B. NO. 1648

**Report Title:**

Judiciary Package; District Court; Small Claims Division;  
Jurisdiction

**Description:**

Establishes small claims division's exclusive jurisdiction of cases for amounts of \$1,000 or less. Allows plaintiff to request removal of small claims cases to be heard in ordinary procedures of the district court when counterclaim is filed.

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

