
A BILL FOR AN ACT

RELATING TO SERVICE BY PUBLICATION.

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

1 SECTION 1. The legislature finds that the manner in which
2 a summons for a civil action is published in Hawaii should be
3 consistent with the publication requirements for other types of
4 notices.

5 The purpose of this Act is to clarify the requirements for
6 service by publication.

7 SECTION 2. Chapter 634, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§634- Service by publication. (a) The court may
11 order that service of the summons be made by publication when:

12 (1) Service of a summons is required by law, court rule,
13 or court order;

14 (2) Service of the summons on a defendant by personal
15 delivery or by certified, registered, or express mail
16 is not successful, despite a reasonable attempt; and



H.B. NO. 739

1 (3) The facts appear by affidavit, declaration, or
2 otherwise to the satisfaction of the court.

3 (b) Service of the summons by publication may be:

4 (1) In a newspaper published in the State and having a
5 general circulation in the circuit in which the action
6 has been filed. The summons shall be published once
7 each week for three consecutive weeks, which shall
8 constitute three publications. The third publication
9 shall be at least twenty-one days before the return
10 date stated in the summons; or

11 (2) On a state website, at the discretion of the agency
12 that maintains the website, in a manner and for such
13 time as the court may order, but at least twenty-one
14 days before the return date stated in the summons;
15 provided that the summons shall also be published at
16 least once in a newspaper described in paragraph (1)
17 at least twenty-one days before the return date.

18 (c) As used in this section, "general circulation" refers
19 to a newspaper that:

20 (1) Contains news of a general nature; and



H.B. NO. 739

- 1 (2) Is distributed within the circuit in which the action
2 has been filed:
- 3 (A) At least weekly;
- 4 (B) For a minimum of one year unless interrupted by
5 strike, natural disaster, or act of war or
6 terror; and
- 7 (C) To a minimum of three per cent of the residents
8 of the circuit, as determined by the last
9 decennial United States census and as verified by
10 an independent audit."

11 SECTION 3. Section 482-34, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) In any action brought against a registrant that is a
14 nonresident of this State, service may be effected pursuant to
15 sections 634-35, [~~and~~] 634-36[-], and 634-____."

16 SECTION 4. Section 604-7, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:

18 "(c) A summons or other writ issued by a district court
19 may be served anywhere within the State. A summons or other
20 writ issued by a district court may be served without the State



1 in accordance with section 634-24, 634-25, 634-34, 634-35, [~~or~~]
2 634-36 [~~or~~], or 634-_____."

3 SECTION 5. Section 634-33, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§634-33 Service in cases of operation of motor vehicles.

6 The use and operation by any person, whether a resident or a
7 nonresident of the State, of any motor vehicle upon a public
8 highway in this State shall subject the person to the
9 jurisdiction of the courts of this State in any action or
10 proceeding against the person growing out of any accident or
11 collision in which the person and the motor vehicle so used and
12 operated may be involved. The use and operation of the motor
13 vehicle is deemed a signification of the person's agreement that
14 any summons against the person which is served is of the same
15 legal force and validity as if served upon the person personally
16 within this State, whether the person is a nonresident of this
17 State or at the time a cause of action arises is a resident of
18 this State but subsequently becomes a nonresident of this State.
19 Service of such summons is to be made as provided by [~~section~~]
20 sections 634-36 [~~or~~] and 634-_____, if the defendant cannot be found
21 in the State.



1 This section shall not be construed as repealing or
2 amending any other provision of law relating to the service of
3 process nor as establishing an exclusive method of service of
4 process in cases to which this section may apply."

5 SECTION 6. Section 634-34, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§634-34 Service on boat operators.** The operation,
8 navigation, use, or maintenance by any person, whether a
9 resident or nonresident of the State, of any boat, ship, barge,
10 or other watercraft in the navigable waters of the State shall
11 subject the person to the jurisdiction of the courts of this
12 State in any action or proceeding against the person growing out
13 of any accident, collision, or claim for damages in which the
14 person and the boat, ship, barge, or other watercraft may be
15 involved in the navigable waters. The operation, navigation,
16 use, or maintenance is deemed a signification of the person's
17 agreement that any summons against the person which is served is
18 of the same legal force and validity as if served upon the
19 person personally within this State, whether the person is a
20 nonresident of this State or at the time a cause of action
21 arises is a resident of this State but subsequently becomes a



1 nonresident of this State. Service of the summons is to be made
2 as provided by [~~section~~] sections 634-36 [~~7~~] and 634- , if the
3 defendant cannot be found in the State.

4 This section shall not be construed as repealing or
5 amending any other provision of law relating to the service of
6 process nor as establishing an exclusive method of service of
7 process in cases to which this section may apply."

8 SECTION 7. Section 634-35, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Service of process upon any person who is subject to
11 the jurisdiction of the courts of this State, as provided in
12 this section, may be made as provided by [~~section~~] sections 634-
13 36 [~~7~~] and 634- , if the person cannot be found in the State,
14 with the same force and effect as though summons had been
15 personally served within this State."

16 SECTION 8. Section 634-36, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§634-36 Manner of service under sections 634-33 to 35.**
19 When service of summons is provided for by section 634-33, 634-
20 34, or 634-35, service shall be made by service upon the
21 defendant personally by any person authorized to serve process



1 in the place in which the defendant may be found or appointed by
2 the court for the purpose, or sent by certified, registered, or
3 express mail, postage prepaid, with return receipt requested, by
4 the plaintiff or the plaintiff's attorney to the defendant. The
5 plaintiff or the plaintiff's attorney shall file the return of
6 the serving officer or an affidavit showing that the copy of
7 summons and complaint were served as aforesaid or sent by
8 certified, registered, or express mail as aforesaid, and in the
9 latter case the return receipt signed by the defendant shall be
10 filed with the affidavit. The service shall be complete upon
11 delivery of the required papers to the defendant outside the
12 State, personally or by mail as provided.

13 ~~[If the defendant cannot be found to serve or mail the~~
14 ~~summons and the facts shall appear by affidavit or otherwise to~~
15 ~~the satisfaction of the court, it may order that service be made~~
16 ~~by publication of summons in at least one newspaper published in~~
17 ~~the State and having a general circulation in the circuit in~~
18 ~~which the action has been instituted, in such manner and for~~
19 ~~such time as the court may order, but not less than once each~~
20 ~~week in four successive weeks, the last publication to be not~~
21 ~~less than twenty one days prior to the return date stated~~



1 ~~therein unless a different time is prescribed by order of the~~
2 ~~court.] "~~

3 SECTION 9. Section 667-1, Hawaii Revised Statutes, is
4 amended by amending the definition of "serve" to read as
5 follows:

6 "Serve", when referring to providing notice of intention to
7 foreclose or notice of default and intention to foreclose
8 pursuant to a nonjudicial foreclosure, means to have service of
9 the notice of default and intention to foreclose made in
10 accordance with the service of process or the service of summons
11 under the Hawaii rules of civil procedure and under sections
12 634-35, [and] 634-36, and 634-___, excluding however, any return
13 or affidavit of service obligations required therein."

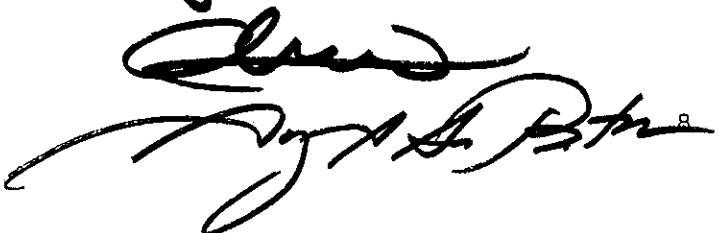
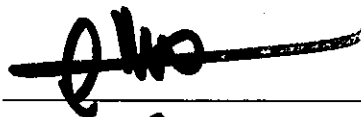
14 SECTION 10. This Act does not affect rights and duties
15 that matured, penalties that were incurred, and proceedings that
16 were begun before its effective date.

17 SECTION 11. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 12. This Act shall take effect upon its approval.

20

INTRODUCED BY:



H.B. NO. 739

John A. Blunt

JAN 23 2015



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Report Title:

Civil Actions; Service by Publication

Description:

Clarifies the requirements for service by publication.

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