

JAN 21 2016

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;



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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:



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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



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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.

9

INTRODUCED BY:


BY REQUEST



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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.

