
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 607-14.7, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§607-14.7[+] **Attorney's fees, costs, and expenses;**
8 **judgment creditors.** In addition to any other attorney's fees,
9 costs, and expenses which may or are required to be awarded, and
10 notwithstanding any law to the contrary, the court in any civil
11 action may award to a judgment creditor, from a judgment debtor,
12 reasonable attorney's fees, costs, and expenses incurred by the
13 judgment creditor in obtaining or attempting to obtain
14 satisfaction of a money judgment, whether by execution,
15 examination of judgment debtor, garnishment, or otherwise. The
16 court may award attorney's fees which it determines is
17 reasonable, but shall not award fees in excess of the following
18 schedule:



- 1 25 per cent on first \$1,000 or fraction thereof.
- 2 20 per cent on second \$1,000 or fraction thereof.
- 3 15 per cent on third \$1,000 or fraction thereof.
- 4 10 per cent on fourth \$1,000 or fraction thereof.
- 5 5 per cent on fifth \$1,000 or fraction thereof.
- 6 2.5 per cent on any amount in excess of \$5,000.

7 The above fees shall be assessed on the amount of judgment,
 8 exclusive of costs and all other attorney's fees[-]; provided
 9 that the court shall award no attorney's fees in cases filed
 10 pursuant to section 633-27(b)(2) or (d)(2)."

11 SECTION 3. Section 633-27, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "§633-27 District courts; powers. (a) All district
 14 courts, except as otherwise provided, shall exercise
 15 jurisdiction conferred by this chapter, and while sitting in the
 16 exercise of that jurisdiction, shall be known and referred to as
 17 the small claims division of the district court; provided that
 18 the jurisdiction of the court when sitting as a small claims
 19 division of the district court shall be confined to:

- 20 (1) Cases for the recovery of money [~~only~~] where the
 21 amount claimed is more than \$1,000 but does not exceed



1 \$5,000 exclusive of interest and costs, except as
2 provided by section 633-30;

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

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

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

13 (b) This chapter shall not abridge or affect the
14 jurisdiction of the district courts under ~~[paragraphs (1) and~~
15 ~~-(3)]~~;

16 (1) Subsection (a) (1) and (4) to determine cases under the
17 ordinary procedures of the court, it being optional
18 with the plaintiff in the cases to elect the procedure
19 of the small claims division of the district court or
20 the ordinary procedures, as provided by rule of
21 court ~~[-]~~; and



1 (2) Subsection (a)(2) to determine cases under the
 2 ordinary procedures of the court, it being optional
 3 with the plaintiff who is represented by an attorney
 4 licensed in this State to elect the procedure of the
 5 small claims division of the district court or the
 6 ordinary procedures.

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

11 (d) In cases arising under [~~paragraph (2),~~] subsection
 12 (a) (2) or (3), the jurisdiction of the small claims division of
 13 the district court shall be exclusive; provided that [~~the~~]:

14 (1) The district court, having jurisdiction over a civil
 15 action involving [~~summary possession,~~] a residential
 16 landlord-tenant relationship, shall have concurrent
 17 jurisdiction with the small claims division of the
 18 district court over any security deposit dispute
 19 [~~between landlord and tenant in a residential~~
 20 ~~landlord-tenant relationship.~~]; and



1 (2) The district court, having jurisdiction over a civil
2 action under subsection (a) (2) where the plaintiff is
3 represented by an attorney licensed in this State,
4 shall have concurrent jurisdiction with the small
5 claims division of the district court.

6 ~~[This subsection]~~ Subsections (a) to (c) and this subsection
7 shall not abrogate or supersede sections 604-5, 633-30, and 633-
8 31.

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

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

20 (1) Monetary relief shall not include punitive damages;
21 and



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

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

8 SECTION 4. Section 633-28, Hawaii Revised Statutes, is
 9 amended by amending subsection (a) to read as follows:

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

18 (1) As provided by law or rule of court for cases in the
 19 district courts; provided that for any small claims
 20 action, service may be made by one of the parties to



1 the action by means of personal service to the other
2 parties, on the condition that:

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

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

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

16 (3) As to actions arising under [~~paragraph (2) of section~~
17 ~~633-27(a),~~] section 633-27(a)(3), by registered mail
18 or by certified mail with return receipt signed by the
19 addressee showing delivery at any place within or
20 without the State.



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

5 SECTION 5. Section 633-30, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§633-30 Counterclaim; retention of jurisdiction. When
8 the limit of the district court as provided by section 633-27 is
9 exceeded in a counterclaim but within the jurisdictional limit
10 of the court as provided by section 604-5, the action shall
11 nevertheless remain in the small claims division of the district
12 court and be tried therein in its entirety [~~provided that~~],
13 unless removal to be heard under the ordinary procedures of the
14 district court is requested by the plaintiff. In addition, the
15 district court having jurisdiction over a civil action involving
16 [~~summary possession~~] a residential landlord-tenant relationship
17 shall have concurrent jurisdiction with the small claims
18 division of the district court over any security deposit dispute
19 [~~between landlord and tenant in a residential landlord-tenant~~
20 ~~relationship~~]."



1 SECTION 6. Section 633-34, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§633-34 Award of costs. In any action pursuant to this
4 chapter, the award of costs is in the discretion of the court,
5 which may include therein the reasonable cost of bonds and
6 undertakings, and other reasonable expenses incident to the
7 action, incurred by either party. No attorneys' fees or
8 commissions shall be allowed or awarded under sections 607-14
9 and [~~607-17~~] 607-14.7 by any judgment of the small claims
10 division."

11 SECTION 7. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 8. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 9. This Act shall take effect on January 1, 2017.



Report Title:

Judiciary Package; District Court; Small Claims Division;
Jurisdiction; Attorney's Fees

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. Allows a plaintiff to file cases in either the small claims division or regular claims division of district court if the plaintiff is represented by an attorney. Prohibits the award of attorney's fees in cases for amounts of \$1,000 or less exclusive of interests and costs if the plaintiff is represented by an attorney and the district court has concurrent jurisdiction with the small claims division of district court. Takes effect 1/1/2017. (SD1)

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