

Honolulu, Hawaii

FEB 19 2016

RE: S.B. No. 2101
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Commerce, Consumer Protection, and Health, to which was referred S.B. No. 2101 entitled:

"A BILL FOR AN ACT RELATING TO DISTRICT COURT SMALL CLAIMS,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend section 633-27, Hawaii Revised Statutes (HRS), relating to the powers of the District Courts, to:
 - (A) Establish exclusive jurisdiction of the Small Claims Division of the District Court over cases in which the amount claimed is \$1,000 or less; and
 - (B) Expand the jurisdiction of the Small Claims Division over personal property cases to include the return of any personal property, rather than leased or rented personal property, worth \$5,000 or less;
- (2) Allow a plaintiff to request removal of a small claims case to be heard in the ordinary procedures of the District Court when a counterclaim is filed; and
- (3) Make conforming amendments to reflect the amendments made to section 633-27, HRS.



Your Committees received testimony in support of this measure from the Judiciary and one individual. Your Committees received testimony in opposition to this measure from the Collection Law Section of the Hawaii State Bar Association, Hawaii Financial Services Association, Hawaii Bankers Association, Hawaii Credit Union League, and two individuals.

Your Committees find that existing law allows plaintiffs to file their claims in the Small Claims Division or Regular Claims Division of the District Court. This measure will allow plaintiffs to file in the Small Claims Division when the amount in controversy is \$1,000 or less, which is more efficient and less costly for the plaintiff.

Your Committees note the concerns raised in testimony that this measure does not account for plaintiffs who are represented by attorneys. Many plaintiffs who retain an attorney prefer filing their cases in Regular Claims for various reasons. However, this measure would mandate all cases in which the amount claimed is \$1,000 or less to be heard in the Small Claims Division, which the testimony cautions could have a costly financial impact to the Judiciary and organizations that receive funds to serve the indigent.

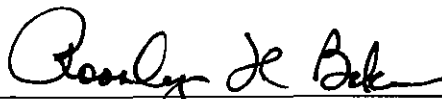
Accordingly, your Committees have amended this measure by:

- (1) Adopting the language suggested by the Hawaii Financial Services Association to allow a plaintiff to file cases in either the Small Claims Division or Regular Claims Division of the District Court if the plaintiff is represented by an attorney;
- (2) Amending section 607-14.7, HRS, to prohibit the award of attorney's fees in cases for recovery amounts of \$1,000 or less exclusive of interest and costs if the plaintiff is represented by an attorney and the District Court has concurrent jurisdiction with the Small Claims Division of the District Court;
- (3) Amending section 633-34, HRS, to correct a statutory reference; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

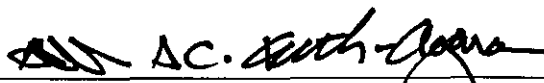


As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Commerce, Consumer Protection, and Health that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2101, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2101, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



GILBERT S.C. KEITH-AGARAN, Chair



