

**"CHAPTER 632
DECLARATORY JUDGMENTS**

Section

- 632-1 Jurisdiction; controversies subject to
- 632-2 Appeals
- 632-3 Further relief upon judgment
- 632-4, 5 Repealed
- 632-6 Provisions, remedial

Attorney General Opinions

To the extent that the reciprocal beneficiaries act [L 1997, c 383] does impose obligations on insurers, it may provide a basis for affected persons to seek relief by, for example, seeking declaratory relief under this chapter. Att. Gen. Op. 97-10.

" **§632-1 Jurisdiction; controversies subject to.** [(a)] In cases of actual controversy, courts of record, within the scope of their respective jurisdictions, shall have power to make binding adjudications of right, whether or not consequential relief is, or at the time could be, claimed, and no action or proceeding shall be open to objection on the ground that a judgment or order merely declaratory of right is prayed for; provided that declaratory relief may not be obtained in any district court, or in any controversy with respect to taxes, or in any case where a divorce or annulment of marriage is sought. Controversies involving the interpretation of deeds, wills, other instruments of writing, statutes, municipal ordinances, and other governmental regulations may be so determined, and this enumeration does not exclude other instances of actual antagonistic assertion and denial of right.

[(b)] Relief by declaratory judgment may be granted in civil cases where an actual controversy exists between contending parties, or where the court is satisfied that antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation, or where in any such case the court is satisfied that a party asserts a legal relation, status, right, or privilege in which the party has a concrete interest and that there is a challenge or denial of the asserted relation, status, right, or privilege by an adversary party who also has or asserts a concrete interest therein, and the court is satisfied also that a declaratory judgment will serve to terminate the uncertainty or controversy giving rise to the proceeding. Where, however, a statute provides a special form of remedy for a specific type of case, that statutory remedy shall be followed; but the mere fact that an actual or threatened controversy is susceptible of relief through a general common law remedy, a remedy equitable in nature, or an extraordinary legal remedy, whether such remedy is recognized or regulated by statute or not, shall not debar a party from the privilege of obtaining a declaratory judgment in any case where the other essentials to such relief are present. [L 1921, c 162, §1; RL 1925, §2918; RL 1935, §4220; RL 1945, §9971; am L 1945, c 74, §1; RL 1955, §228-1; HRS §632-1; am L 1972, c 89, §1(a) to (c); gen ch 1985]

Revision Note

In the second sentence of subsection (a), the comma after "and other governmental regulations" deleted pursuant to §23G-15.

Rules of Court

Declaratory judgments, see HRCF rule 57.

Case Notes

Proceedings not applicable to test title to usurped office in private corporation. 27 H. 420 (1923).

Where cause of action exists party injured relegated to established modes of procedure to redress wrong. 27 H. 420 (1923); 29 H. 122 (1926).

Interpretation of lease. 31 H. 720 (1930).

Declaratory relief granted to test validity of criminal statute, when. 47 H. 652, 394 P.2d 618 (1964).

Existence of another adequate remedy does not preclude seeking a declaration. 48 H. 68, 395 P.2d 691 (1964).

Interpretation of real estate development contract. 49 H. 214, 412 P.2d 925 (1966).

Issue of decedent's domicile, declaratory judgment action to determine. 50 H. 162, 434 P.2d 309 (1967).

Action to determine validity of ordinances amending city's general plan. 51 H. 400, 462 P.2d 199 (1969).

Where there are conflicting interpretations on plaintiff's right to rent supplement under §359-121 et seq., there is actual controversy. 53 H. 213, 491 P.2d 114 (1971).

Where claims of parties are dismissed on a stipulation, parties no longer have any concrete interest in an actual controversy, and court may not render a declaratory judgment. 56 H. 104, 529 P.2d 198 (1974).

Proceedings for interpretation of constitutional provision not permitted where no immediate need. 57 H. 213, 552 P.2d 1392 (1976).

Actual controversy where plaintiffs have "stake" in outcome but are neither owners nor adjoining owners of lands subject to use reclassification. 63 H. 166, 623 P.2d 431 (1981).

Section precluded in issues arising under workers' compensation law. 64 H. 380, 641 P.2d 1333 (1982).

Action for declaratory judgment did not lie because review was subject to section 91-14. 66 H. 485, 666 P.2d 1133 (1983).

Circuit court had jurisdiction over plaintiff's petition under this section for declaratory relief. Court was not required to defer to agency's determination; court could make its own

independent findings regarding the salient facts of the case. 75 H. 237, 858 P.2d 726 (1993).

Although plaintiffs were neither owners nor adjoining owners of development project, where they asserted that they were long time and frequent users of the coastline and that project may cause irreversible changes to the coastline, they nonetheless alleged an injury in fact sufficient to constitute standing to participate in a declaratory judgment action. 91 H. 94, 979 P.2d 1120 (1999).

Where there was no actual controversy because the fee owners were requesting a declaratory judgment based on the expiration of the master lease, an event that was to occur at some time in the future, there was no actual controversy in existence at the time; therefore, the relief that the fee owners had requested was properly denied under this section. 104 H. 468, 92 P.3d 477 (2004).

As it has long been established that declaratory relief is not appropriate for criminal matters "where a full and adequate remedy is provided by another well-known form of action", particularly by testing the statute in a criminal proceeding, case lacked the special circumstances that would warrant declarative action. 109 H. 230, 124 P.3d 975 (2006).

Where claim for quo warranto was not before the supreme court, it was premature for the supreme court to determine whether quo warranto was the only appropriate remedy to the exclusion of an action for declaratory judgment before that question was presented to the trial court on remand. 122 H. 251, 226 P.3d 421 (2010).

As nothing in chapter 103F expressly precluded judicial review, it did not violate the separation of powers doctrine; judicial review was available in connection with chapter 103F by way of a declaratory action under this section. 127 H. 76, 276 P.3d 645 (2012).

Petitioner's right to equal protection under article I, §5 of the Hawaii constitution not violated as nothing in chapter 103F prohibited judicial review; judicial review was available by way of a declaratory action under this section. 127 H. 76, 276 P.3d 645 (2012).

As construed, chapter 103F was not unconstitutional for violating the doctrine of separation of powers as petitioner contended, because although the department of education, in interpreting and applying provisions of chapter 103F and in deciding disputes to which it is a party, exercises aspects of the judicial power, its decisions are subject to judicial review under this section. 127 H. 263, 277 P.3d 988 (2012).

Where there was an implied legislative intent to create a remedy for a purchasing agency's failure to comply with chapter

103F, and correlatively, nothing expressly indicating an intent to deny one, there was a private right of action allowed against the State (i.e., the department of education) under this section specifically challenging a decision made under chapter 103F, as to whether the relevant administrative officers complied with the statutes, rules, and the request for proposals. 127 H. 263, 277 P.3d 988 (2012).

Where it could not be determined from the allegations whether there was a substantial controversy as to a particular contract that was of sufficient immediacy and reality to warrant a declaratory judgment, a declaratory judgment generally declaring that all contracts issued under §3-122-166 (repealed), Hawaii administrative rules, are invalidated could not be issued pursuant to this section. 132 H. 333, 322 P.3d 228 (2014).

No jurisdiction to entertain declaratory judgment to pass upon validity of release of mechanic's and materialman's lien. 2 H. App. 132, 627 P.2d 291 (1981).

Taxpayer's request for confirmation that under chapter 420 it was a valid business development corporation that was exempt from taxes based on income, was a "controversy with respect to taxes" for which declaratory relief was unavailable under this section. 92 H. 659 (App.), 994 P.2d 591 (1999).

This section did not authorize trial court to decide the declaratory judgment action when insurer of insured/alleged tortfeasor brought declaratory judgment action that insurer did not have a duty to defend or indemnify the insured/alleged tortfeasor regarding the motor vehicle accident and the declaratory judgment action was only against the alleged victim and not the insured/alleged tortfeasor. 94 H. 498 (App.), 17 P.3d 847 (2001).

" **§632-2 Appeals.** Declaratory judgments may be reviewed as other judgments. [L 1921, c 162, §2; RL 1925, §2919; RL 1935, §4221; RL 1945, §9972; RL 1955, §228-2; HRS §632-2; am L 1972, c 89, §1(d)]

" **§632-3 Further relief upon judgment.** Further relief based on a declaratory judgment may be granted whenever necessary or proper, after reasonable notice and hearing, against any adverse party whose rights have been adjudicated by the judgment. [L 1921, c 162, §3; RL 1925, §2920; RL 1935, §4222; RL 1945, §9973; RL 1955, §228-3; HRS §632-3; am L 1972, c 89, §1(e)]

Case Notes

Cited as authorizing the grant of ancillary equitable relief, including relief from forfeiture of lease for breach of covenant. 58 H. 606, 575 P.2d 869 (1978).

Where the court did not adjudicate the rights of any party because the declaratory judgment was voluntarily dismissed, section inapplicable. 103 H. 26, 79 P.3d 119 (2003).

Where the recipients of the contracts awarded under §3-122-166 (repealed), Hawaii administrative rules, were not made parties to the case and, therefore, their rights were not "adjudicated by the judgment", the circuit court could not have invalidated the contracts as "ancillary relief". 132 H. 333, 322 P.3d 228 (2014).

" **§§632-4 and 632-5 REPEALED.** L 1972, c 89, §1(f).

" **§632-6 Provisions, remedial.** This chapter is declared to be remedial. Its purpose is to afford relief from the uncertainty and insecurity attendant upon controversies over legal rights, without requiring one of the parties interested so to invade the rights asserted by the other as to entitle the party to maintain an ordinary action therefor. It is to be liberally interpreted and administered, with a view to making the courts more serviceable to the people. [L 1921, c 162, §6; RL 1925, §2923; RL 1935, §4225; RL 1945, §9976; RL 1955, §228-6; HRS §632-6; gen ch 1985]

Case Notes

Cited: 27 H. 420, 424 (1923); 31 H. 720, 721 (1930).