

**"CHAPTER 636
JUDGMENT**

Section

636-1, 2 Repealed

636-3 Judgment, orders, decrees; lien when

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payments

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Note

As to procedural statutes superseded by the rules of court, see note preceding Title 32.

" **§§636-1 and 636-2 REPEALED.** L 1972, c 89, §3(e).

" **§636-3 Judgment, orders, decrees; lien when.** Any money judgment, order, or decree of a state court or the United States District Court for the District of Hawaii shall be a lien upon real property when a copy thereof, certified as correct by a clerk of the court where it is entered, is recorded in the bureau of conveyances. No such lien shall continue beyond the length of time the underlying judgment, order, or decree is in force. Except as otherwise provided, every judgment shall contain or have endorsed on it the Hawaii tax identification number, the federal employer identification number, or the last four digits only of the social security number for persons, corporations, partnerships, or other entities against whom the judgment, order, or decree is rendered. If the debtor has no social security number, Hawaii tax identification number, or federal employer identification number, or if that information is not in the possession of the party seeking registration of the judgment, order, or decree, the judgment, order, or decree shall be accompanied by a certificate that provides that the information does not exist or is not in the possession of the party seeking recordation of the judgment. Failure to disclose or disclosure of an incorrect social security number, Hawaii tax identification number, or federal employer identification number shall not in any way adversely affect or impair the lien created upon recordation of the judgment, order, or decree. When any judgment, order, or decree is fully paid, the creditor or the creditor's attorney of record in the action, at the expense of the debtor, shall execute, acknowledge, and deliver to the debtor a satisfaction thereof, which may be recorded in the bureau. Every satisfaction or assignment of judgment, order, or decree shall contain a reference to the book and page or document number of the registration of the original judgment. The recording fees for a judgment, order, or decree and for each assignment or satisfaction of judgment, order, or decree shall be as provided by section 502-25.

In the case of registered land, sections 501-241 to 501-248 and part II of chapter 501 shall govern.

The party seeking to record or register a judgment, order, or decree shall redact the first five digits of any social security number by blocking the numbers out on the copy of the judgment, order, or decree to be recorded or registered. [L

1913, c 32, §1; RL 1925, §2435; am L 1929, c 27, §2; RL 1935, §4133; am L 1939, c 15, §1; RL 1945, §10134; am L 1947, c 158, §2; RL 1955, §232-4; am L 1966, c 33, §6; HRS §636-3; am L 1972, c 89, §3(a); gen ch 1985; am L 1989, c 47, §16; am L 1990, c 203, §5; am L 1998, c 219, §15; am L 2006, c 155, §1; am L 2008, c 86, §4; am L 2009, c 5, §4 and c 120, §15; am L 2013, c 119, §10; am L 2014, c 19, §4]

Cross References

Recordation, see §502-31.5.

Rules of Court

Recordation, see RLC rule 62(e).

" **§636-4 Examination of judgment debtors and others.** Any creditor who has obtained a judgment in any court, or the creditor's successor in interest when that interest appears of record, may apply to the court for the issuance of orders, summons, or subpoenas, in order that the judgment debtor, and any other person having any knowledge about the affairs or property of the judgment debtor, may be examined orally before, or as directed by, a judge of the court as to any and what property the debtor owns or has an interest in and what debts are owing to the debtor, and the court may issue such orders, summons, or subpoenas, for the examination of the judgment debtor and any other person having any knowledge about the affairs or property of the judgment debtor, and for the production of any books or documents. The examination shall be conducted in the same manner as in the case of an oral examination of witnesses. If the court finds that the judgment debtor subsequent to the entry of judgment has wilfully concealed any of the judgment debtor's property or any interest therein the court shall tax all costs of the examination against the defendant, which shall be paid when the judgment is satisfied, in whole or in part, as a cost of execution. [L 1876, c 35, §4; am L 1915, c 10, §1; RL 1925, §2834; RL 1935, §4134; am L 1939, c 24, §1; RL 1945, §10135; RL 1955, §232-5; HRS §636-4; am L 1972, c 89, §3(b); gen ch 1985]

Rules of Court

See HRCP rule 69; DCRCP rule 69.

Case Notes

Petition to any court to issue a garnishee summons must be in writing and contain a specific request for garnishee process. 5 H. 664 (1886).

Execution not a condition precedent. 19 H. 625 (1909).

Order to show cause. 22 H. 229 (1914).

Applies only to proceedings after judgment. 27 H. 749, 753 (1924).

Cited: 24 H. 16, 18 (1917).

" **§636-5 Action on judgment; penalty for failure to credit payments.** Whenever in any action brought on a prior judgment, the complaint fails to credit prior payments on the judgment, the defendant shall be entitled to offset against the true balance due on the judgment an amount double the amount of any such credit in addition to any other penalties by law prescribed in such circumstances unless the plaintiff shall show that the existence or amount of the credit was in bona fide dispute or that the failure to set forth the credit was inadvertent or the result of an honest mistake. [L 1972, c 89, §3(c)]

" **§§636-11 to 636-14 REPEALED.** L 1972, c 89, §3(e).

" **§636-15 Default judgments.** Upon application for a judgment by default:

- (1) If the taking of evidence is required or ordered and the matter is one which would have been tried before a jury had there been no default, the court shall accord a right of trial by jury unless the court in its discretion upon motion orders trial without jury on any or all issues.
- (2) If a defendant served by publication has not appeared in the action, the court shall require proof to be made of the allegations of the complaint. [L 1972, c 89, §3(d)]

" **[§636-16] Awarding interest.** In awarding interest in civil cases, the judge is authorized to designate the commencement date to conform with the circumstances of each case, provided that the earliest commencement date in cases arising in tort, may be the date when the injury first occurred and in cases arising by breach of contract, it may be the date when the breach first occurred. [L 1979, c 78, §2]

Cross References

Allowable rate of interest, see §478-2.

Case Notes

Prejudgment interest awarded from date of accrual of losses in air crash to date of verdict. 525 F. Supp. 1007.

Award of prejudgment interest appropriate where plaintiffs had to wait substantial period of time between time of death of decedent and date of judgment. 823 F. Supp. 778 (1993).

Court lacked authority to make award of prejudgment interest where entire case was submitted to arbitration. 128 F. Supp. 2d 697 (2000).

Award of prejudgment interest not warranted where defendants did not unduly delay proceedings. 167 F. Supp. 2d 1143 (2000).

Prejudgment interest not limited to liquidated damages. 68 H. 472, 718 P.2d 1080 (1986).

Purpose of section is to allow court to designate the commencement date of interest in order to correct injustice when judgment is delayed for long period of time for any reason. 73 H. 526, 836 P.2d 479 (1992).

Section 478-3 postjudgment interest not allowed on this section's prejudgment interest. 74 H. 1, 837 P.2d 1273 (1992).

Prejudgment interest awarded in trial court's discretion; denial of prejudgment interest proper where no evidence of party's conduct unduly delaying case. 74 H. 85, 839 P.2d 10 (1992).

Court did not abuse its discretion under this section and §478-3 in awarding appellee ten per cent interest per annum on appellee's back pay. 74 H. 599, 851 P.2d 311 (1993).

Prejudgment interest properly awarded under this section from date of breach of contract at rate of ten per cent as provided in §478-2(1) for money due on settlement agreement between parties. 86 H. 21, 946 P.2d 1317 (1997).

Although defendant was responsible for delay in adjudication of plaintiff's claims, no abuse of discretion in trial court's denial of prejudgment interest to plaintiff where court determined that jury, through extraordinary damage award, actually compensated plaintiff for post-imprisonment suffering. 89 H. 91, 969 P.2d 1209 (1998).

Section does not restrict circuit court's discretion in awarding prejudgment interest to periods subsequent to May 18, 1979; section should be afforded retroactive effect because it is a remedial statute designed to clarify and encourage the exercise of judicial discretion in the award of prejudgment interest. 89 H. 91, 969 P.2d 1209 (1998).

As insurance commissioner's suit against customer of liquidated mutual benefit society was a civil case and nothing in this section prohibits the awarding of prejudgment interest, trial court abused its discretion by failing to consider

commissioner's request for prejudgment interest. 99 H. 53, 52 P.3d 823 (2002).

Trial court did not abuse discretion in awarding prejudgment interest to plaintiffs even though it did not find fault on the part of defendant with respect to the delay in judgment; court stated it only sought to compensate plaintiff for the delay in reaching judgment. 110 H. 473, 135 P.3d 82 (2006).

Although, under this section, courts in all civil cases have the discretion to award prejudgment interest, and because it was a civil case, nothing in this section prohibited the awarding of prejudgment interest, the purpose of this section is to allow the court to designate the commencement date of the case in order to correct injustice when a judgment is delayed for a long period of time for any reason; thus, where appellant did not assert that there was any lengthy delay in the issuance of the judgment of attorneys' fees or costs in the appeal, appellant's request for prejudgment interest was denied. 120 H. 400, 208 P.3d 713 (2009).

Prejudgment interest not awarded where no commencement date designated. 5 H. App. 603, 705 P.2d 67 (1985).

Denial of prejudgment interest proper where, considering totality of case, period of time to complete case was not extraordinary, defendant's settlement offers were not unreasonable, and delays in proceedings were not due to conduct of either party. 80 H. 204 (App.), 908 P.2d 552 (1995).

Award of prejudgment interest not abuse of discretion where issuance of judgment was greatly delayed; there was five year nine month delay from date injury first occurred to date of initial judgment. 86 H. 93 (App.), 947 P.2d 961 (1997).

Trial court can award prejudgment interest for any substantial delay in the proceedings and no purposeful delay on part of nonmoving party is required. 86 H. 93 (App.), 947 P.2d 961 (1997).