

ACT 107

H. B. NO. 2052-72

A Bill for an Act Relating to Proceedings Concerning Property, Amending Chapters 510, 514, 515, and 516, of the Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subject to the provisions of Act 242 of the Session Laws of 1949, and without extending the scope of Chapter 510 of the Hawaii Revised Statutes, said chapter is amended as follows:

(a) Section 510-6 is amended by deleting from the sixth and seventh lines the words “file a complaint, duly verified, with the judge, at chambers, of” and inserting in lieu thereof “commence an action in”; by inserting in the first line of subsection (b) preceding the word “civil” the word “other”; by deleting from the first line of subsection (c) the words “of the complaint so filed”; by deleting from the first and next to the last lines of subsection (c) the word “judge” and inserting in lieu thereof “court”; by deleting from the second line of subsection (c) the words “a decree” and inserting in lieu thereof the word “judgment”; and by amending subsection (d) to read as follows:

“(d) In case of any change in conditions after the entry of judgment pursuant to this section, either spouse may by motion showing the change in conditions, apply to the same court for the modification or rescission of the judgment. In such case notice to the other spouse shall be given in such manner as the court may direct. Upon the hearing of the motion the court shall either deny the motion or modify or rescind the prior judgment, as to the court may appear to be just, proper, equitable, and to the best interests of the community.”

(b) Section 510-7 is amended by deleting from the third line the word and punctuation “, suits,” and by deleting from the next to the last line the word “decree” and inserting in lieu thereof “judgment”.

(c) Section 510-10 is amended by deleting from the twelfth line of subsection (b) the word "judge" and inserting in lieu thereof "court".

SECTION 2. Chapter 514 of the Hawaii Revised Statutes is amended as follows:

(a) Section 514-24 is amended by deleting from the seventh line the word "suit" and inserting in lieu thereof "action", and by deleting from the fifteenth line the word "Suit" and inserting in lieu thereof "Action".

(b) Section 514-47 is amended by deleting from the sixth line the words "at law".

(c) Section 514-52 is amended by deleting from the second line the words "boards of supervisors" and inserting in lieu thereof "county councils".

SECTION 3. Chapter 515 of the Hawaii Revised Statutes is amended as follows:

(a) Section 515-10 is amended by inserting in the eleventh line of subsection (e), after the words "consent of the respondent" the word "or".

(b) Section 515-13 is amended by deleting from the first and second lines of subsection (d) the words "a petition by the respondent for judicial review" and inserting in lieu thereof "an appeal by the respondent".

(c) Section 515-14 is amended to read as follows:

"Sec. 515-14. Judicial review; enforcement. (a) A complainant or respondent aggrieved by an order of the department of regulatory agencies, including an order dismissing a complaint, or stating the terms of a conciliation agreement, may obtain judicial review by taking an appeal to the circuit court in the manner and within the time provided by the rules of court.

(b) A proceeding for enforcement is initiated by filing a petition in the circuit court within thirty days after a copy of the order of the department is received. Copies of the petition shall be served upon all parties of record.

(c) If the department fails to schedule a hearing in accordance with section 515-11 (a) or fails to issue an order within one hundred and eighty days after the complaint is filed, the complainant, respondent, or the attorney general may petition the circuit court in a circuit in which the alleged discriminatory practice set forth in the complaint occurs or in which the petitioner resides or transacts business for an order directing the department to take such action. Service shall be made upon all parties. Within thirty days after the service of the petition upon the department, or such other time as the court may fix, the department shall transmit to the court the original or a certified copy of the entire record, including any transcript of testimony.

(d) An objection not urged at a hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remit the case to the department in the interest of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon; provided he shows good cause for the failure to adduce such evidence before the department.

(e) The jurisdiction of the circuit court is exclusive. Its final judgment shall be subject to an appeal to the supreme court. The department's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(f) If no timely proceeding for review is initiated, the department may obtain a decree of the court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent and that the respondent is subject to the jurisdiction of the court. The time limit of thirty days shall not apply to the department's petition.

(g) In a proceeding under this section, the court may grant such temporary relief or restraining order as it deems just, and in a review proceeding may enter an order enforcing, modifying, and enforcing as modified, or setting aside in whole or in part the order of the department, or remanding the case to the department for further proceedings. All such proceedings shall be heard and determined by the court as expeditiously as possible and with precedence over all other matters before it, except matters of like nature."

SECTION 4. Chapter 516 of the Hawaii Revised Statutes is amended as follows:

(a) Section 516-38 is amended by deleting from the fifth and sixth lines of the last paragraph the words "suit, action, or proceedings" and inserting in lieu thereof "action or proceeding".

(b) Section 516-81 is amended by deleting from the last line "chapter 631" and inserting in lieu thereof "section 602-5 (3)".

SECTION 5. The amendments made by this Act shall not affect or repeal any other act passed at the same session of the legislature, and all such acts shall have full effect. So far as such acts conflict with any provision contained in this Act, they shall have the effect of subsequent acts.

SECTION 6. This Act upon its approval shall take effect on July 1, 1973.

(Approved May 23, 1972.)