

ACT 142

H. B. NO. 1838-72

A Bill for an Act Relating to the Small Claims Division of the District Court.

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

SECTION 1. Section 633-27, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 633-27 District courts; powers. All district courts, except as otherwise provided, shall exercise jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction, shall be known and referred to as the small claims division of the district court; provided that the jurisdiction of the court when sitting as a small claims division of the district court shall be confined to:

- (1) Cases for the recovery of money only where the amount claimed does not exceed \$300 exclusive of interest and costs, except as provided by Section 633-30; and
- (2) Cases involving disagreement between landlord and tenant about the security deposit in a residential landlord-tenant relationship.

This chapter shall not abridge or affect the jurisdiction of the district courts under paragraph (1) to determine cases under the ordinary procedures of the court, it being optional with the parties to such cases to elect the procedure of the small claims division of the district court or the ordinary procedures, as provided by rule of court. In cases arising under paragraph (2) the jurisdiction of the small claims division of the district court shall be exclusive.

Actions shall be commenced in small claims division of the district court of the judicial circuit in which the defendant or a majority of the defendants reside or the claim for relief arose, unless service cannot be made on all of the defendants in that circuit, in which case action may be commenced in any circuit in which all of the defendants can be served.”

SECTION 2. Section 633-28, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 633-28 Small claims, no appeal; appearance by whom. (a) Actions shall be commenced and conducted in the small claims division of the district court as provided by the rules of court. The clerk of the court shall, at the request of an individual, prepare the papers required to be filed in an action in the court, but his services in the preparation of these papers shall not be available to a corporation, partnership, or association, or to any individual proprietorship. The mode of service shall be as provided by law or rule of court for cases in the district courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit. There shall be no appeal from a judgment of the small claims division, but the court, sitting as the small claims division, may alter or set aside any judgment as provided by the rules of court.

(b) Notwithstanding any provision of law requiring the licensing of practitioners, any person may, with the approval of the court, appear on behalf of himself or another in the small claims division of the district court; provided, in cases involving disagreement between landlord and tenant about the security deposit in a residential landlord-tenant relationship, licensed practitioners are prohibited to appear on behalf of another person. The services of an unlicensed person appearing under this subsection shall be without compensation, either by way of direct fee, contingent fee, or otherwise. In the event the services are rendered for compensation this subsection is inapplicable and the rendering of the services constitutes the unlawful practice of law, except as otherwise provided.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 30, 1972.)

*Edited accordingly.