

JAN 20 2017

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# A BILL FOR AN ACT

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RELATING TO SMALL CLAIMS DIVISION OF THE DISTRICT COURT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The purpose of this Act is to:

2       (1) Establish exclusive jurisdiction of the small claims  
3       division of the district court over cases in which the  
4       amount claimed is \$1,000 or less exclusive of interest  
5       and costs;

6       (2) Expand the small claims division's jurisdiction over  
7       personal property cases to include any personal  
8       property worth \$5,000 or less; and

9       (3) Make clarifying and housekeeping amendments.

10       SECTION 2. Section 633-27, Hawaii Revised Statutes, is  
11       amended to read as follows:

12       "**§633-27 District courts; powers.** (a) All district  
13       courts, except as otherwise provided, shall exercise  
14       jurisdiction conferred by this chapter, and while sitting in the  
15       exercise of that jurisdiction, shall be known and referred to as  
16       the small claims division of the district court; provided that



1 the jurisdiction of the court when sitting as a small claims  
2 division of the district court shall be confined to:

3 (1) Cases for the recovery of money only where the amount  
4 claimed ~~[does not exceed \$5,000 exclusive of interest~~  
5 ~~and costs, except as provided by section 633-30,]~~ is  
6 \$1,000 or less exclusive of interest and costs;

7 (2) Cases for the recovery of money where the amount  
8 claimed is more than \$1,000 but does not exceed \$5,000  
9 exclusive of interest and costs, except as provided by  
10 section 633-30;

11 ~~[(2)]~~ (3) Cases involving disagreement between landlord and  
12 tenant about the security deposit in a residential  
13 landlord-tenant relationship; and

14 ~~[(3)]~~ (4) Cases for the return of ~~[leased or rented]~~  
15 personal property worth ~~[less than]~~ \$5,000 ~~[where the~~  
16 ~~amount claimed owed for that lease or rental is less~~  
17 ~~than \$5,000 exclusive of interest and costs.]~~ or less.

18 (b) This chapter shall not abridge or affect the  
19 jurisdiction of the district courts under ~~[paragraphs (1) and~~  
20 ~~(3)]~~ subsection (a) (2) and (4) to determine cases under the  
21 ordinary procedures of the court, it being optional with the



1 plaintiff in the cases to elect the procedure of the small  
2 claims division of the district court or the ordinary  
3 procedures, as provided by rule of court.

4 (c) No case filed in the small claims division [~~after~~  
5 ~~December 31, 1991,~~] shall be removed from the small claims  
6 division to be heard under the ordinary procedures of the  
7 district court unless the removal is agreed to by the plaintiff.

8 (d) In cases arising under [~~paragraph (2),~~] subsection  
9 (a) (1) or (3), the jurisdiction of the small claims division of  
10 the district court shall be exclusive; provided that the  
11 district court, having jurisdiction over a civil action  
12 involving [~~summary possession,~~] a residential landlord-tenant  
13 relationship, shall have concurrent jurisdiction with the small  
14 claims division of the district court over any security deposit  
15 dispute [~~between landlord and tenant in a residential landlord-~~  
16 ~~tenant relationship~~]. This subsection shall not abrogate or  
17 supersede sections 604-5, 633-30, and 633-31.

18 [~~(b)~~] (e) Actions shall be commenced in the small claims  
19 division of the district court of the judicial circuit in which  
20 the defendant or a majority of the defendants reside or the  
21 claim for relief arose, unless service cannot be made on all of



1 the defendants in that circuit, in which case action may be  
2 commenced in any circuit in which all of the defendants can be  
3 served; provided that actions arising under [~~paragraph (2) of~~]  
4 subsection [~~(a) of this section~~] (a) (3) shall be commenced in  
5 the circuit wherein the rental premises are situated.

6 [~~(e)~~] (f) The small claims division of the district court  
7 may grant monetary relief and equitable relief except that:

8 (1) Monetary relief shall not include punitive damages;  
9 and

10 (2) Except as specifically provided in section 633-8,  
11 equitable relief shall be granted only as between  
12 parties to a landlord-tenant disagreement pursuant to  
13 chapter 521, and shall be limited to orders to repair,  
14 replace, refund, reform, and rescind.

15 [~~(d)~~] (g) Class actions are prohibited in the small claims  
16 division of the district court."

17 SECTION 3. Section 633-28, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) Actions shall be commenced and conducted in the small  
20 claims division of the district court as provided by the rules  
21 of court. The clerk of the court, at the request of an



1 individual, shall prepare the papers required to be filed in an  
2 action in the court, but the clerk's services in the preparation  
3 of these papers shall not be available to a corporation,  
4 partnership, or association, or to any individual  
5 proprietorship. The mode of service shall be:

6 (1) As provided by law or rule of court for cases in the  
7 district courts; provided that for any small claims  
8 action, service may be made by one of the parties to  
9 the action by means of personal service to the other  
10 parties, on the condition that:

11 (A) The party being served signs that party's name to  
12 indicate actual receipt of service; or

13 (B) A competent witness, who is not an employee,  
14 family member, or agent of the plaintiff appears  
15 at a hearing on the matter or provides a  
16 notarized affidavit testifying that personal  
17 service on the party sought to be served was  
18 accomplished in the witness' presence;

19 (2) As to actions arising under [~~paragraphs (1) and (3) of~~  
20 ~~section 633-27(a),]~~ section 633-27(a)(1), (2), and  
21 (4), by registered mail or by certified mail with



1 return receipt signed by the addressee showing  
2 delivery within the circuit; or

3 (3) As to actions arising under [~~paragraph (2) of section~~  
4 ~~633-27(a),]~~ section 633-27(a)(3), by registered mail  
5 or by certified mail with return receipt signed by the  
6 addressee showing delivery at any place within or  
7 without the State.

8 There shall be no appeal from a judgment of the small claims  
9 division, but the court, sitting as the small claims division,  
10 may alter or set aside any judgment as provided by the rules of  
11 court."

12 SECTION 4. This Act does not affect rights and duties that  
13 matured, penalties that were incurred, and proceedings that were  
14 begun before its effective date.

15 SECTION 5. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on July 1, 2017.  
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INTRODUCED BY:

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# S.B. NO. 427

**Report Title:**

Small Claims Division of the District Court; Jurisdiction

**Description:**

Establishes the exclusive jurisdiction of the small claims division of the district court over cases in which the amount claimed is \$1,000 or less exclusive of interest and costs. Expands the small claims division's jurisdiction over personal property cases to include any personal property worth \$5,000 or less.

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