

**ACT 171**

**S.B. NO. 2581-80**

**A Bill for an Act Relating to Leased or Rented Personal Property.**

*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.** (a) 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 \$1,000 exclusive of interest and costs, except as provided by section 633-30;
- (2) Cases involving disagreement between landlord and tenant about the security deposit in a residential landlord-tenant relationship; and
- (3) Cases for the return of leased or rented personal property worth \$500 or less where the amount claimed owed for such lease or rental does not exceed \$600.

This chapter shall not abridge or affect the jurisdiction of the district courts under paragraphs (1) and (3) 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.

(b) Actions shall be commenced in small claims division of the district court or 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.

(c) The small claims division of the district court may grant monetary relief and equitable relief except that:

- (1) Monetary relief shall not include punitive damages; and
- (2) Equitable relief shall be granted only as between parties to a landlord-tenant disagreement pursuant to chapter 521, and shall be limited to orders to repair, replace, refund, reform, and rescind.

(d) Class actions are prohibited in the small claims division of the district court.”

SECTION 2. Chapter 633, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 633- Order to show cause.** Upon the filing of a copy of a lease or rental contract with a complaint stating leased or rented personal property has been in the defendant’s possession at least fourteen days past the return date specified in the contract, the court may issue an order directing the defendant to appear and show cause for the possession at such time as the court shall direct, but not later than five days from the date of the order to show cause. The court shall order the defendant to either return the leased or rented personal property to the plaintiff or to produce it for the hearing. If at the hearing, the defendant has failed to comply with the order to show cause, the court may hold the defendant in contempt. Upon a finding of contempt, the court may direct the sheriff to produce the leased or rented personal property at a subsequent hearing. Service of the order to show cause 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.”

SECTION 3. Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 604- Jurisdiction of district courts; leased or rented personal property.** Jurisdiction is conferred upon the district courts to try all cases resulting from the retention of leased or rented personal property, the value of which does not exceed \$5,000. In order to commence an action pursuant to this section, the leased or rented personal property shall have been retained by the defendant at least fourteen days past the return date specified in the lease or rental contract.”

SECTION 4. Chapter 604, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 604- Order to show cause.** Upon the filing of a copy of a lease or rental contract with a complaint stating leased or rented personal property has been in the defendant’s possession at least fourteen days past the return date specified in the contract, the court may issue an order directing the defendant to appear and show cause for the possession at such time as the court shall direct, but not later than five days from the date of the order to show cause. The court shall order the defendant to either return the leased or rented personal property to the plaintiff or to produce it for the hearing. If at the hearing, the defendant has failed to comply with the order to show cause, the court may hold the defendant in contempt. Upon a finding of contempt, the court may direct the sheriff to produce the leased or rented personal property at a subsequent hearing. Service of the order to show cause 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.”

SECTION 5. Chapter 603, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 603- Order to show cause.** Whenever a complaint has been filed in circuit court alleging leased or rented personal property the value of which is \$5,000 or more, has been retained by the defendant fourteen days past the return date specified in the lease or rental contract, the plaintiff may petition the court for an order to show cause.

Upon the filing of the petition with a copy of the lease or rental contract, the court may issue an order directing the defendant to appear and show cause for the possession at such time as the court shall direct but not later than five days from the date of the order to show cause. The court shall order the defendant to either return the leased or rented personal property to the plaintiff or to produce it for the hearing. If at the hearing, the defendant has failed to comply with the order to show cause, the court may hold the defendant in contempt. Upon a finding of contempt, the court may direct the sheriff to produce the leased or rented personal property at a subsequent hearing. Service of the order to show cause shall be as provided by law or rule of court for cases in the circuit courts, or by registered mail or by certified mail with return receipt showing delivery within the circuit.”

SECTION 6. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“Sec. 708- Failure to return leased or rented personal property; penalty.**

A person commits the offense of failure to return leased or rented personal property other than a rental motor vehicle, when he knowingly or intentionally does not return the leased or rented personal property to the person, or his agent, from whom the personal property was leased or rented within fourteen days after the return date stated in the lease or rental contract, unless the person leasing or renting the personal property gives notice that he will not be able to return the leased or rented personal property by the date stated and with the permission of the owner of the property or his agent extends the date by which the personal property will be returned.

Failure to return leased or rented personal property is a petty misdemeanor.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 8. This Act shall take effect upon its approval.

(Approved May 29, 1980.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.