

ACT 176

H.B. NO. 1522

A Bill for an Act Relating to Recovery of 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:

“§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 \$600 or less where the amount claimed owed for such lease or rental does not exceed \$1,000 exclusive of interest and costs.

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) Except as specifically provided in section 633-8, 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. Section 633-8, Hawaii Revised Statutes, is amended to read as follows:

“§633-8 **Order to show cause.** Upon the filing of a complaint with a copy of a lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show that the leased or rented personal property has been in the defendant’s possession at least fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or 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 service of the order to show cause. The order to show cause shall also provide that, if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, or his deputy, commanding him to seize the personal property therein described and to deliver the same to the plaintiff or his agent. 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. Section 604-6.1, Hawaii Revised Statutes, is amended to read as follows:

“§604-6.1 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.”

SECTION 4. Section 604-6.2, Hawaii Revised Statutes, is amended to read as follows:

“§604-6.2 Order to show cause. Upon the filing of a complaint with a copy of a lease or rental contract and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show that the leased or rented personal property has been in the defendant’s possession at least fourteen days after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct, but not later than ten days from the date of service of the order to show cause. The order to show cause shall also provide that, if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to possession of the leased or rented personal property, it shall issue an order directed to the sheriff, or his deputy, commanding him to seize the personal property therein described and to deliver the same to the plaintiff or his agent. 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. Section 603-29, Hawaii Revised Statutes, is amended to read as follows:

“§603-29 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 after the termination of the lease or rental contract, either by passage of time or by reason of any default under the terms and conditions of 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 and an affidavit sworn to by the plaintiff or some competent affiant setting forth a statement of facts sufficient to show the termination of the lease or rental contract, the court may issue an order directing the defendant to either return the leased or rented personal property to the plaintiff or to appear and show cause for the possession at such time as the court shall direct but not later than ten days from the date of service of the order to show cause. The order to show cause shall also provide that if the leased or rented personal property is not returned to the plaintiff prior to the hearing, the defendant shall, if reasonably feasible, produce the property at the hearing. If, at the hearing, it is proved to the satisfaction of the court that the plaintiff is entitled to

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possession of the leased or rented personal property, it shall issue an order directed to the sheriff, or his deputy, commanding him to seize the personal property therein described and to deliver the same to the plaintiff or his agent. 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. The amendments made by this Act shall apply to any action or proceeding which is pending, or commenced on or after the date of its approval.

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

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

(Approved June 17, 1981.)

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