

ACT 249

H.B. NO. 1363

A Bill for an Act Relating to District Courts.

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

SECTION 1. Section 604-5, Hawaii Revised Statutes, is amended to read as follows:

“§604-5 Civil jurisdiction. (a) Except as otherwise provided, the district courts shall have jurisdiction in all civil actions, where the debt, amount, or damages, or the value of the property claimed, does not exceed \$5,000, except in civil actions involving summary possession or ejectment, in which case, the district court shall have jurisdiction over any counterclaim otherwise properly brought before the district court by any defendant in such summary possession or ejectment action if [said] the counterclaim arises out of and refers to the land or premises, the possession of which is being sought, regardless of the value of the debt, amount, damages, or property claim contained in the counterclaim. Attorney’s commissions of fees, including those stipulated in any note or contract sued on, interest, and costs, shall not be included in computing the jurisdictional amount. Subject to subsections (b) and (c), jurisdiction under this subsection shall be exclusive when the amount in controversy, so computed, does not exceed \$1,000.

(b) The district courts shall try and determine all actions without a jury, subject to appeal according to law. Whenever a civil matter is triable of right by a jury and trial by jury is demanded in the manner and within the time provided by the rules of court, the case shall be transferred to the circuit court. If the demand is made in the complaint and the matter is triable of right by a jury, the action may be commenced in the circuit court if the amount in controversy exceeds \$1,000.

[(c) Whenever a claim requires for its adjudication the presence of parties who cannot be served in the State, or cannot be served in a single circuit, the action may be commenced in the circuit court even though the amount in controversy does not exceed \$1,000, and if the action has been commenced in a district court it may be transferred to the circuit court.]

[(d)] (c) The district courts shall have jurisdiction in all statutory proceedings as conferred by law upon district courts.

[(e)] (d) The district courts shall not have cognizance of real actions, nor actions in which the title to real estate comes in question, nor actions for libel, slander, defamation of character, malicious prosecution, false imprisonment, breach of promise of marriage, or seduction; nor shall they have power to appoint referees in any cause."

SECTION 2. Section 604-7, Hawaii Revised Statutes, is amended to read as follows:

"§604-7 Powers; venue. (a) The district courts may:

- (1) Administer oaths;
- (2) Subpoena and compel the attendance of witnesses from any part of the State, and compel the production of books, papers, documents, or tangible things;
- (3) Enter final judgments; and alter or set aside any judgment within ten days following the date of its rendition or as provided by the rules of court;
- (4) Enforce judgments; and [punishment] punish contempts according to law;
- (5) Issue garnishee summons which may be served and shall be operative as to the garnishee throughout the [judicial circuit in which the district court issuing the same is situated, except that where the garnishee of a government beneficiary is the comptroller of the State, the garnishee summons may be served and shall be operative throughout the] State;
- (6) In a criminal case, alter, set aside, or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of the sentence.

Every witness duly subpoenaed as provided in this section shall be allowed the same attendance and mileage fees allowed witnesses subpoenaed before the circuit courts.

(b) Any document requiring the signature of a district judge, in any cause or proceeding whatsoever in a district court, may be signed without, as well as within, the boundaries of the circuit in which the court is situated.

(c) [Except as otherwise provided in this chapter or chapter 666, a] A summons or other writ issued by a district court may be served [only in the judicial circuit in which the district court is situated.] anywhere within the State. A summons or other writ issued by a district court may be served without the State in accordance with sections 634-24 and 634-25.

(d) Except as otherwise provided, civil actions shall be brought in 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 there are parties whose

presence is required for adjudication of the claim who cannot be served in that circuit, in which case the action may be brought in the district court of any circuit in which all of the parties can be served. The venue may be changed or the case transferred as provided by section 604-7.3 and 604-7.4.

(e) The several district courts shall have power to make and award such judgments, decrees, orders, and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given them by law or for the promotion of justice in matters pending before them."

SECTION 3. Section 633-27, Hawaii Revised Statutes, is amended by amending subsection (b) as follows:

"(b) Actions shall be commenced in the small claims division of the district court [or] 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 [.]; provided that actions arising under paragraph (2) of subsection (a) of this section shall be commenced in the circuit wherein the rental premises are situated."

SECTION 4. Section 633-28, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(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, as to actions arising under paragraphs (1) and (3) of section 633-27 (a), by registered mail or by certified mail with return receipt signed by the addressee showing delivery within the circuit[.], or, as to actions arising under paragraph (2) of section 633-27(a), by registered mail or by certified mail with return receipt signed by the addressee showing delivery at any place within or without the State. 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."

SECTION 5. 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.] State."

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 7. The substantive provisions of this Act shall amend any other conflicting Act enacted by the regular session of 1983, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section 604-5, Hawaii Revised Statutes, by any other Act enacted by this regular session of 1983.

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

(Approved June 9, 1983.)