

ACT 209

H.B. NO. 2077-84

A Bill for an Act Relating to Service of Process.

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

SECTION 1. Section 634-31, Hawaii Revised Statutes, is amended to read as follows:

“§634-31 Same; nonresidents; service [on director]. The transaction of any acts, business, or activities within the State by any officer, agent, representative, employee, or member of any such association having officers, agents, members, or property without the State, on behalf of such association, or any of its members or affiliated local associations, shall [be deemed an appointment by the association of the director of commerce and consumer affairs to be the true and lawful attorney of the association, upon whom may be served all legal processes or notices] subject the association and its members to the jurisdiction of the courts of this State in any action or proceeding against or involving the association growing out of the acts, business, or activities within the State giving rise to any cause of action, and the acts, business, or activities

shall be a signification of the agreement of the association and its members that any [such] legal process or notice in any action, matter, or proceeding against or involving it, which is [so] served[,] shall be of the same legal force and validity as if served upon the association and its members personally. Service of such process or notice shall be made by [filing a copy thereof in the office of the director together with payment of a fee of \$10, of which \$5 shall be deposited in the special fund authorized by section 416-97, and the balance deposited to the general fund of the State, and such service shall be sufficient service upon the association and its members; and notice of the service and a copy of the process or notice shall, within ten days thereafter, be sent by] registered mail [by the director] to the association at its last known address and an affidavit of compliance with this section shall be filed with the court or other state agency or department before which the action, matter, or proceeding is pending. The filing shall be deemed service upon the association and its members twenty days after the filing.”

SECTION 2. Section 634-33, Hawaii Revised Statutes, is amended to read as follows:

“[[]§634-33[]] **Service in cases of operation of motor vehicles.** The use and operation by any person, whether a resident or a nonresident of the State, of any motor vehicle upon a public highway in this State [is deemed equivalent to an appointment by such person of the director of commerce and consumer affairs of the State to be his true and lawful attorney upon whom may be served the summons] shall subject the person to the jurisdiction of the courts of this State in any action or proceeding against him growing out of any accident or collision in which the person and the motor vehicle so used and operated may be involved. The use and operation of the motor vehicle is deemed a signification of his agreement that any [such] summons against him which is [so] served is of the same legal force and validity as if served upon him personally within this State, whether the person is a nonresident of this State or at the time a cause of action arises is a resident of this State but subsequently becomes a nonresident of this State. Service of such summons is to be made as provided by section 634-36, if the defendant cannot be found in the State.

This section shall not be construed as repealing or amending any other provision of law relating to the service of process nor as establishing an exclusive method of service of process in cases to which this section may apply.”

SECTION 3. Section 634-34, Hawaii Revised Statutes, is amended to read as follows:

“[[]§634-34[]] **Service on boat operators.** The operation, navigation, use, or maintenance by any person, whether a resident or nonresident of the State, of any boat, ship, barge, or other watercraft in the navigable waters of the

State [of Hawaii is deemed equivalent to an appointment by such person of the director of commerce and consumer affairs to be his true and lawful attorney upon whom may be served the summons] shall subject the person to the jurisdiction of the courts of this State in any action or proceeding against him growing out of any accident, collision, or claim for damages in which the person and the boat, ship, barge, or other watercraft may be involved in the navigable waters. The operation, navigation, use, or maintenance is deemed a signification of his agreement that any [such] summons against him which is [so] served is of the same legal force and validity as if served upon him personally within this State, whether the person is a nonresident of this State or at the time a cause of action arises is a resident of this State but subsequently becomes a nonresident of this State. Service of the summons is to be made as provided by section 634-36, if the defendant cannot be found in the State.

This section shall not be construed as repealing or amending any other provision of law relating to the service of process nor as establishing an exclusive method of service of process in cases to which this section may apply.”

SECTION 4. Section 634-36, Hawaii Revised Statutes, is amended to read as follows:

“[[]§634-36[]] **Manner of service under sections 634-33 to 35.** When service of summons is provided for by [sections] section 634-33, 634-34, or 634-35, service shall be made by [leaving a certified copy thereof with the director of commerce and consumer affairs or his deputy, who shall keep a record of each such summons and the day and hour of service, provided that notice of the service and a certified copy of the summons and of the complaint are served] service upon the defendant personally by any person authorized to serve process in the place in which he may be found or appointed by the court for the purpose, or sent by certified or registered mail, postage prepaid, with return receipt requested, by the plaintiff or his attorney to the defendant. The plaintiff or his attorney shall file the return of the serving officer or an affidavit showing that the notice and the copy of summons and complaint were served as aforesaid or sent by certified or registered mail as aforesaid, and in the latter case the return receipt signed by the defendant shall be filed with the affidavit. The service shall be deemed complete upon delivery of the required papers to the defendant outside the State, personally or by mail as provided.

[After service on the director or his deputy, if] If the defendant cannot be found to serve or mail the summons and the facts shall appear by affidavit or otherwise to the satisfaction of the court, it may order that service be made by publication of summons in at least one newspaper published in the State and having a general circulation in the circuit in which the action has been instituted, in such manner and for such time as the court may order, but not less than once each week in four successive weeks, the last publication to be not less

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than twenty-one days prior to the return date stated therein unless a different time is prescribed by order of the court.”

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 30, 1984.)