

A Bill for an Act Relating to the Power and Authority of Investigators.

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

SECTION 1. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (j) to read as follows:

“(j) In the course of an investigation of matters affecting the interest of consumers, depositors, or investors or of any other matter within the jurisdiction of the department, the director shall have the power to subpoena witnesses, examine them under oath, and require the production of books, papers, documents, or objects which the director deems relevant or material to the inquiry. Upon application by the director, obedience to the subpoena may be enforced by the circuit court in the county where the person subpoenaed resides or is found in the same manner as a subpoena issued by the clerk of a circuit court.

The director shall appoint and commission one or more investigators [to serve subpoenas] as the exigencies of the public service may require. [Subpoenas served by persons appointed and commissioned by the director shall have the same force and effect as subpoenas served by police officers or deputy sheriffs.] Persons appointed and commissioned under this section may serve subpoenas and serve process and orders pursuant to section 634-21. Nothing in this subsection shall be construed to entitle persons [commissioned and] appointed and commissioned by the director to retirement benefits applicable to police officers under chapter 88.”

SECTION 2. Section 634-21, Hawaii Revised Statutes, is amended to read as follows:

“**§634-21 Service of process, by whom.** Except as otherwise provided, service of all process and orders shall be made by the sheriff or the sheriff’s deputy, the chief of police of the county in which the service is made or the chief’s duly authorized subordinate, some other person specially appointed by the court for the purpose, any investigator appointed and commissioned by the director of commerce and consumer affairs pursuant to section 26-9(j), or a process server licensed pursuant to chapter 634D.”

SECTION 3. Section 634-22, Hawaii Revised Statutes is amended to read as follows:

“**§634-22 Return.** In all cases where any process or order of a court is served by any officer of the court or of the police force or the sheriff or the sheriff’s deputies[,] or any investigator appointed and commissioned by the director of commerce and consumer affairs pursuant to section 26-9(j), a record thereof shall be endorsed upon the back of the process, complaint, order, or citation. The record shall state the name of the person served and the time and place of service and shall be signed by the officer making the service. If the officer fails to make service the officer, in like manner, shall endorse the reason for the officer’s failure and sign this record. When service is made by a person specially appointed by the court, or a

licensed process server, the person or process server shall make affidavit of that service.

The record or the affidavit shall be prima facie evidence of all it contains, and no further proof thereof shall be required unless either party desires to examine the officer or person making service, in which case the officer or person shall be notified to appear for examination.”

SECTION 4. Section 634D-1 Hawaii Revised Statutes, is amended to read as follows:

“~~[[§634D-1]]~~ **Process servers; license required.** Except as otherwise provided by law or rules of court, no person shall engage in the business as or serve in the capacity of a process server without being licensed as provided in this chapter. This chapter shall not apply to:

- (1) The sheriff or the sheriff's deputies;
- (2) The chief of police of the county in which the service is made or the chief's authorized subordinate;
- (3) Bailiffs and any other authorized court personnel; [and]
- (4) Any investigator appointed and commissioned by the director of commerce and consumer affairs pursuant to section 26-9(j); or
- (5) Other persons appointed by the court to serve process.”

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

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

(Approved June 9, 1993.)