

ACT 12

S.B. NO. 615

A Bill for an Act Relating to Small Claims Court.

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

SECTION 1. Section 633-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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 \$3,500 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 \$3,500 or less where the amount claimed owed for that lease or rental does not exceed \$3,500 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 plaintiff in the cases to elect the procedure of the small claims division of the district court or the ordinary procedures, as provided by rule of court. No case filed in the small claims division after December 31, 1991, shall be removed from the small claims division to be heard under the ordinary procedures of the district court unless the removal is agreed to by the plaintiff. In cases arising under paragraph (2) the jurisdiction of the small claims division of the district court shall be exclusive[-]; provided that the district court, having jurisdiction over a civil action involving summary possession, shall have concurrent jurisdiction with the small claims division of the district court over any security deposit dispute between

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landlord and tenant in a residential landlord-tenant relationship. This subsection shall not abrogate nor supersede sections 604-5, 633-30, and 633-31.”

SECTION 2. Section 633-28, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding any provision of law requiring the licensing of practitioners, any person [~~may~~], with the approval of the court, may appear on behalf of [~~oneself~~] the person or another person in the small claims division of the district court; provided that, in cases in the small claims division of the district court involving disagreement between landlord and tenant about the security deposit in a residential landlord-tenant relationship, licensed practitioners are prohibited [~~to appear~~] from appearing on behalf of another person. The services of an unlicensed person appearing under this subsection shall be without compensation, either by way of direct fee, contingent fee, or otherwise. In the event [~~the~~] representation services are rendered for compensation, this subsection is inapplicable and the rendering of the services constitutes the unlawful practice of law, except as otherwise provided.”

SECTION 3. Section 633-30, Hawaii Revised Statutes, is amended to read as follows:

“**§633-30 Counterclaim; retention of jurisdiction.** When the limit of the district court as provided by section 633-27 is exceeded in a counterclaim but within the jurisdictional limit of the court as provided by section 604-5, the action shall nevertheless remain in the small claims division of the district court and be tried therein in its entirety[-]; provided that the district court having jurisdiction over a civil action involving summary possession shall have concurrent jurisdiction with the small claims division of the district court over any security deposit dispute between landlord and tenant in a residential landlord-tenant relationship.”

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 2006.

(Approved April 18, 2005.)