



GOV. MSG. NO. 1244

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 20, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

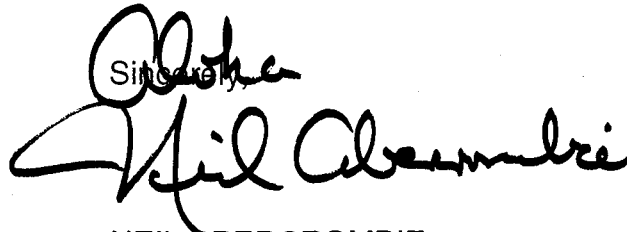
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 20, 2012, the following bill was signed into law:

HB2601 HD3 SD1

RELATING TO THE SERVICE OF PROCESS.
Act 142 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO THE SERVICE OF PROCESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 603-29, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§603-29 Order to show cause. Whenever a complaint has
4 been filed in circuit court alleging leased or rented personal
5 property the value of which is \$5,000 or more, has been retained
6 by the defendant fourteen days after the termination of the
7 lease or rental contract, either by passage of time or by reason
8 of any default under the terms and conditions of the lease or
9 rental contract, the plaintiff may petition the court for an
10 order to show cause.

11 Upon the filing of the petition with a copy of the lease or
12 rental contract and an affidavit sworn to by the plaintiff or
13 some competent affiant setting forth a statement of facts
14 sufficient to show the termination of the lease or rental
15 contract, the court may issue an order directing the defendant
16 to either return the leased or rented personal property to the
17 plaintiff or to appear and show cause for the possession at such
18 time as the court shall direct but not later than ten days from



1 the date of service of the order to show cause. The order to
2 show cause shall also provide that if the leased or rented
3 personal property is not returned to the plaintiff prior to the
4 hearing, the defendant shall, if reasonably feasible, produce,
5 the property at the hearing. If, at the hearing, it is proved
6 to the satisfaction of the court that the plaintiff is entitled
7 to possession of the leased or rented personal property, it
8 shall issue an order directed to the sheriff, [~~or the sheriff's~~]
9 deputy[~~r~~] sheriff, or person authorized by the rules of court,
10 commanding the sheriff [~~e~~], deputy sheriff, or other person
11 authorized by the rules of court to seize the personal property
12 therein described and to deliver the same to the plaintiff or
13 the plaintiff's agent. Service of the order to show cause shall
14 be as provided by law or rule of court for cases in the circuit
15 courts, or by registered mail or by certified mail with return
16 receipt showing delivery within the circuit."

17 SECTION 2. Section 604-6.2, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§604-6.2 Order to show cause.** Upon the filing of a
20 complaint with a copy of a lease or rental contract and an
21 affidavit sworn to by the plaintiff or some competent affiant
22 setting forth a statement of facts sufficient to show that the



1 leased or rented personal property has been in the defendant's
2 possession at least fourteen days after the termination of the
3 lease or rental contract, either by passage of time or by reason
4 of any default under the terms and conditions of the lease or
5 rental contract, the court may issue an order directing the
6 defendant to either return the leased or rented personal
7 property to the plaintiff or to appear and show cause for the
8 possession at such time as the court shall direct, but not later
9 than ten days from the date of service of the order to show
10 cause. The order to show cause shall also provide that, if the
11 leased or rented personal property is not returned to the
12 plaintiff prior to the hearing, the defendant shall, if
13 reasonably feasible, produce the property at the hearing. If,
14 at the hearing, it is proved to the satisfaction of the court
15 that the plaintiff is entitled to possession of the leased or
16 rented personal property, it shall issue an order directed to
17 the sheriff, [~~or the sheriff's~~] deputy[~~]~~ sheriff, or other
18 person authorized by the rules of court commanding the sheriff
19 [~~or~~], deputy sheriff, or a person authorized by the rules of
20 court to seize the personal property therein described and to
21 deliver the same to the plaintiff or the plaintiff's agent.
22 Service of the order to show cause shall be as provided by law



1 or rule of court for cases in the district courts, or by
2 registered mail or by certified mail with return receipt showing
3 delivery within the State."

4 SECTION 3. Section 607-4, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) [~~Sheriff's or~~] Fees of sheriff, deputy sheriff,
7 police [~~officer's fees:~~] officer, or other person authorized by
8 the rules of court:

- 9 (1) For serving any criminal summons, warrant, attachment,
10 or other criminal process, \$30 effective July 1, 2001.
11 This fee is payable to a sheriff, deputy sheriff, or
12 police officer. Service of criminal summons, warrant,
13 attachment, or other criminal process shall be made
14 only by persons authorized to serve criminal summons
15 in accordance with rules of court.
- 16 (2) For serving any civil summons, warrant, attachment, or
17 other civil process, \$25 effective July 1, 2001.
- 18 (3) For every copy of an attachment and inventory of the
19 property attached, served upon the defendant, \$2.
- 20 (4) For serving any execution, 12 cents for every \$1
21 collected up to \$500, and 7 cents for every \$1 over
22 \$500.



1 (5) For serving: subpoena, \$25; and subpoena duces tecum
2 or garnishee summons, \$15 effective July 1, 2001.

3 (6) For every mile of travel, more than one, in serving
4 any process, 40 cents; provided that:

5 (A) [~~no~~] No allowance shall be made where the serving
6 [~~officer~~] individual uses a conveyance furnished
7 the serving [~~officer~~] individual by the State, or
8 any political or municipal subdivision thereof;

9 (B) [~~where~~] Where the serving [~~officer~~] individual
10 serves more than one person in the course of one
11 trip, the serving [~~officer~~] individual shall not
12 charge, in the aggregate for all services, more
13 than the mileage for the entire trip; and

14 (C) [~~as~~] As far as practicable, in order to minimize
15 the mileage fees for the service, the sheriff or
16 other chief of the serving officers, or other
17 person authorized by the rules of court, where
18 service of process is to be made upon an island
19 other than that upon which is situated the court
20 issuing the process, shall cause the process to
21 be transmitted to [~~a~~] the sheriff, deputy[~~r~~]
22 sheriff, the chief of police, a person authorized



1 by the rules of court, or other serving [~~officer~~]
2 individual upon the island of service, who shall
3 make the service upon receipt of the process; and
4 the service shall be valid, notwithstanding that
5 the process may not be addressed to the [~~officer~~]
6 individual actually making the service or to the
7 [~~officer's~~] individual's superior.

8 In lieu of any fee under this subsection, the fee may be an
9 hourly rate of not less than \$50 per hour agreed upon in advance
10 between the party requesting the service and the sheriff [~~or~~],
11 deputy sheriff, police officer, or other person authorized by
12 the rules of court performing the service."

13 SECTION 4. Section 607-8, Hawaii Revised Statutes, is
14 amended by amending its title and subsection (a) to read as
15 follows:

16 "~~§607-8~~ [~~Sheriff's or~~] Fees of sheriff, serving or levying
17 [~~officer's fees~~] officer, or other person authorized by the
18 rules of court in circuit court, intermediate appellate court,
19 or supreme court. (a) For all necessary travel in making the
20 service, per mile for every mile more than one...40 cents
21 provided that:



- 1 (1) No allowance shall be made where the serving [~~officer~~]
2 individual uses a conveyance furnished the serving
3 [~~officer~~] individual by the State, or any political or
4 municipal subdivision thereof;
- 5 (2) Where the serving [~~officer~~] individual serves more
6 than one person in the course of one trip, the serving
7 [~~officer~~] individual shall not charge, in the
8 aggregate for all services more than the mileage for
9 the entire trip; and
- 10 (3) As far as practicable, in order to minimize the
11 mileage fees for the service, the sheriff or other
12 chief of the serving officers, or other person
13 authorized by the rules of court where service of
14 process is to be made upon an island other than that
15 upon which is situated the court issuing the process,
16 shall cause the process to be transmitted to [~~a~~] the
17 sheriff, deputy[~~r~~] sheriff, the chief of police, other
18 person authorized by the rules of court, or other
19 serving [~~officer~~] individual upon the island of
20 service who shall make the service upon receipt of the
21 process; and the service shall be valid,
22 notwithstanding that the process may not be addressed



1 to the [~~officer~~] individual actually making the
2 service or to the [~~officer's~~] individual's superior.

3 For serving criminal summons or any other criminal process
4 except a subpoena, for each person served therewith
5 \$30 effective July 1, 2001. Service of
6 criminal summons or any other criminal process shall be made
7 only by persons authorized to serve criminal summons in
8 accordance with rules of court.

9 For serving civil summons or any other civil process,
10 except a subpoena or a garnishee summons, for each person
11 served therewith \$25 effective July 1,
12 2001.

13 For serving: subpoena, for each person, \$25; and
14 subpoena duces tecum or garnishee summons, for each
15 person \$15 effective July 1, 2001.

16 For returning as unserved after due and diligent search any
17 process when it has been found that the person to be served has
18 left the State \$5 effective July 1, 2001.

19 For serving any execution or other process for the
20 collection of money, for every dollar collected up
21 to \$1,000 5 cents.

22 And for every dollar over \$1,000 2-1/2 cents.

1 All fees paid to any printer for publishing an
2 advertisement of the sale of any property.

3 For every bill of sale \$2.

4 For executing and acknowledging a deed pursuant to a
5 sale of real estate to be paid by the grantee in the
6 deed..... \$8.

7 For drawing any bond required by law..... \$2.

8 For serving writ of possession or restitution,
9 putting any person entitled into the possession of
10 premises, and removing a tenant pursuant to order of
11 court..... \$25.

12 Together with all necessary expenses incurred by the
13 [~~officer~~] individual serving the writ, incident to the eviction.

14 For selling any property on an order from the court other
15 than an execution, the same allowance as for service and sales
16 by execution.

17 The fees for service of executions, attachments, and
18 collection of judgments, together with all costs incurred after
19 judgment rendered, not included in the judgment, in all courts
20 of the State, shall be collected in addition to the sum directed
21 to be levied and collected in the writ.



1 In lieu of any fee under this subsection, the fee may be an
2 hourly rate of not less than \$50 per hour agreed upon in advance
3 between the party requesting the service and the sheriff [~~or~~],
4 deputy sheriff, police officer, or other person authorized by
5 the rules of court performing the service."

6 SECTION 5. Section 633-8, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§633-8 Order to show cause. Upon the filing of a
9 complaint with a copy of a lease or rental contract and an
10 affidavit sworn to by the plaintiff or some competent affiant
11 setting forth a statement of facts sufficient to show that the
12 leased or rented personal property has been in the defendant's
13 possession at least fourteen days after the termination of the
14 lease or rental contract, either by passage of time or by reason
15 of any default under the terms and conditions of the lease or
16 rental contract, the court may issue an order directing the
17 defendant to either return the leased or rented personal
18 property to the plaintiff or to appear and show cause for the
19 possession at such time as the court shall direct, but not later
20 than five days from the date of service of the order to show
21 cause. The order to show cause shall also provide that, if the
22 leased or rented personal property is not returned to the



1 plaintiff prior to the hearing, the defendant shall, if
2 reasonably feasible, produce the property at the hearing. If,
3 at the hearing, it is proved to the satisfaction of the court
4 that the plaintiff is entitled to possession of the leased or
5 rented personal property, it shall issue an order directed to
6 the sheriff, [~~or the sheriff's~~] deputy[~~r~~] sheriff, or other
7 person authorized by the rules of court commanding the sheriff
8 [~~or the sheriff's~~], deputy sheriff, or other person authorized
9 by the rules of court to seize the personal property therein
10 described and to deliver the same to the plaintiff or the
11 plaintiff's agent. Service of the order to show cause shall be
12 as provided by law or rule of court for cases in the district
13 courts, or by registered mail or by certified mail with return
14 receipt showing delivery within the circuit."

15 SECTION 6. Section 634-11, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§634-11 Interpleader; [~~sheriff's~~] application for**
18 **order[~~r~~] by sheriff or other person authorized by the rules of**
19 **court.** When, in the execution of process against goods and
20 chattels issued by or under the authority of the courts of the
21 State, by reason of claims made to such goods and chattels by
22 assignees of bankrupts and other persons not being the parties



1 against whom such process had issued, whereby the [~~sheriffs and~~
2 sheriff, deputy sheriffs, other officers, or persons authorized
3 by the rules of court are exposed to the hazard and expense of
4 actions, any such claim shall be made to any goods or chattels
5 taken or intended to be taken in execution under any such
6 process or to the proceeds or value thereof, it shall be lawful
7 for the court, out of which the execution shall have issued, or
8 any judge thereof, upon application of the sheriff [~~or~~], deputy
9 sheriff, other officer, or other person authorized by the rules
10 of court, made before or after the return of such process, and
11 as well before as after any action brought against the sheriff
12 [~~or~~], deputy sheriff, other officer, or other person authorized
13 by the rules of court, to call before it or the judge by rule,
14 order, or summons, as well the party issuing such process as the
15 party making the claim. Thereupon the court or judge shall, for
16 the adjustment of the claims and the relief and protection of
17 the sheriff [~~or~~], deputy sheriff, other officer, or other person
18 authorized by the rules of court, make such rules, orders, and
19 decisions as shall appear to be just according to the
20 circumstances of the case. The costs of all such proceedings
21 shall be in the discretion of the court or judge."



1 SECTION 7. Section 634-12, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§634-12 Sale of property seized on execution, when.** When
4 goods or chattels have been seized in execution by the sheriff
5 [~~or~~], deputy sheriff, other officer, or other person authorized
6 by the rules of court, under process of any court, and some
7 third person claims to be entitled under a bill of sale, chattel
8 mortgage, or otherwise, to the goods and chattels by way of
9 security for a debt, the court or a judge may order a sale of
10 the whole or part thereof, upon such terms as to the payment of
11 the whole or part of the secured debt or otherwise as it or the
12 judge shall think fit; and may direct the application of the
13 proceeds of sale in such manner and upon such terms as to the
14 court or judge may seem just."

15 SECTION 8. Section 634-22, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§634-22 Return.** In all cases where any process or order
18 of a court is served by any officer of the court or of the
19 police force or the sheriff [~~or the sheriff's deputies~~], deputy
20 sheriff, or any investigator appointed and commissioned by the
21 director of commerce and consumer affairs pursuant to section
22 26-9(j), a record thereof shall be endorsed upon the back of the



1 process, complaint, order, or citation. The record shall state
2 the name of the person served and the time and place of service
3 and shall be signed by the officer making the service. If the
4 officer fails to make service the officer, in like manner, shall
5 endorse the reason for the officer's failure and sign this
6 record. When service is made by a person specially appointed by
7 the court, or a person authorized by the rules of court, the
8 person shall make affidavit of that service.

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

14 SECTION 9. Section 651-1, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§651-1 General provisions.** This [~~part~~] chapter shall
17 apply to circuit and district courts. A judge of any court of
18 record may make any order at chambers which may by the
19 provisions of this [~~part~~] chapter be made by the court in term
20 time. When the proceedings are before a district judge, the
21 judge shall be regarded as the clerk of the court for all
22 purposes contemplated herein. The phrase "police officer", as



1 used in this [~~part,~~] chapter, means the director of public
2 safety or the director's duly authorized representative, any
3 chief of police or subordinate police officer, or a person
4 authorized by the rules of court. Nothing in this [~~part~~]
5 chapter shall be construed to permit a district judge to issue a
6 writ of attachment to be served out of the circuit in which the
7 judge's court is situated, or to permit an attachment of real
8 estate, or any interest therein, under a writ issued by a
9 district court judge."

10 SECTION 10. Section 666-11, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§666-11 Judgment; writ of possession.** If it is proved to
13 the satisfaction of the court that the plaintiff is entitled to
14 the possession of the premises, the plaintiff shall have
15 judgment for possession, and for the plaintiff's costs.
16 Execution shall issue accordingly. The writ of possession shall
17 issue to the sheriff [~~or to a~~], deputy sheriff, police officer,
18 or other person authorized by the rules of court of the circuit
19 where the premises are situated, commanding the sheriff [~~or~~],
20 deputy sheriff, police officer, or other person authorized by
21 the rules of court to remove all persons from the premises, and



1 to put the plaintiff, or the plaintiff's agent, into the full
2 possession thereof."

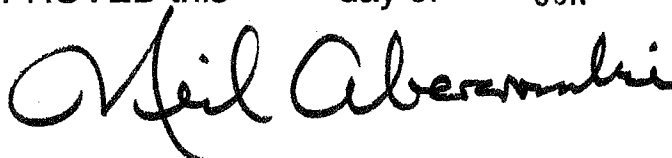
3 SECTION 11. Section 666-21, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) If the tenant is unable to comply with the court's
6 order under subsection (a) in paying the required amount of rent
7 to the court, the landlord shall have judgment for possession
8 and execution shall issue accordingly. The writ of possession
9 shall issue to the sheriff [~~or to a~~], deputy sheriff, police
10 officer, or other person authorized by the rules of court of the
11 circuit where the premises are situated, ordering the
12 sheriff [~~or~~], deputy sheriff, police officer, or other person
13 authorized by the rules of court to remove all persons and
14 possessions from the premises, and to put the landlord, or the
15 landlord's agent, into full possession of the premises."

16 SECTION 12. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 13. This Act shall take effect upon its approval.

APPROVED this 20 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII

