

Honolulu, Hawaii

MAR 03 2023

RE: S.B. No. 921

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 921 entitled:

"A BILL FOR AN ACT RELATING TO LIMITATIONS OF ACTIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that no statute of repose shall affect a condominium association's right of action against a condominium developer sooner than two years after the period of developer control terminates.

Your Committee received testimony in support of this measure from two individuals.

Your Committee finds that a condominium association's right of action against a developer is expressly tolled during the period of developer control pursuant to section 514B-141(c), Hawaii Revised Statutes (HRS). In other words, the two-year statute of limitations period will not begin to run against a condominium association until the developer terminates control, ensuring that a condominium association will not lose its right to sue for design or construction defects if a developer purposefully maintains control for a period longer than two years.

However, your Committee also finds that section 514B-141(c), HRS, does not directly address the effect of the statute of repose contained in section 657-8, HRS, which relates to damages based on construction improvements. Your Committee further finds that this



ambiguity could lead courts to interpret section 514B-141(c), HRS, to apply only to the statute of limitations and not to the statute of repose. Your Committee finds that the same rationale for tolling the statute of limitations until developer control terminates exists for the statute of repose. Therefore, this measure clarifies the existing law and preserves the rights of condominium associations to sue.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 921 and recommends that it pass Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,




KARL RHOADS, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 921	Committee Referral: CPN, JDC	Date: 2/24/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓			
ELEFANTE, Brandon J.C.	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton	✓			
TOTAL	5	—	—	—
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes