

Honolulu, Hawaii

APR 04 2025

RE: H.B. No. 420
H.D. 3
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 420, H.D. 3, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO REMEDIES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify the applicability of the statute of repose to apply to contract, tort, and statutory claims;
- (2) Clarify the required contents of a notice of claim of a construction defect served on a contractor;
- (3) Require claimants to comply with provisions of the Contractor Repair Act before proceeding with or joining in a class action; and
- (4) Clarify the process and time frame by which a claimant may accept or reject a contractor's offer to settle and authorize repairs.

Your Committee received testimony in support of this measure from the Hawai'i Association of REALTORS; Fred Lau Hawaiian Landscape Company, Inc.; Newport Pacific Cabinets, Inc.; Paradigm Construction LLC; Mutual Housing Association of Hawai'i, Inc.;



Hawaiiana Management Company, Ltd.; Hawaii Laborers and Employers Cooperation and Education Trust; NAIOP Hawaii; Jayar Construction, Inc.; Housing Hawai'i's Future; Building Industry Association of Hawaii; Nordic PCL Construction, Inc.; Gentry Homes, Ltd.; Hawaii Operating Engineers Industry Stabilization Fund Political Action Committee; Castle & Cooke Hawaii; Palehua Townhouse Association; Alliant Insurance Services, Inc.; Z Contractors Inc.; Island Flooring; Hawaii Insurers Council; Chamber of Commerce Hawaii; Holomua Collaborative; Young Democrats of Hawai'i; Hawai'i YIMBY; Hawai'i Regional Council of Carpenters; Inspired Closets Hawaii; Kapolei Chamber of Commerce; Hawaii Credit Union League; Case Lombardi A Law Corporation; Commercial Sheetmetal Co., Inc.; Pacific Resource Partnership; D.R. Horton Hawaii; Royal Contracting Co. Ltd.; A-Plus Seamless Raingutters, Inc.; KY International; Tru-Door Hawaii; Vinyl Tech and Masonry, Inc.; and numerous individuals.

Your Committee received testimony in opposition to this measure from Kadsen Turner Thomson Booth, LLC; LippSmith LLP; and four individuals.

Your Committee received comments on this measure from one individual.

Your Committee finds that it is important to ensure that the court maintains the proper authority when resolving litigation relating to construction defects. This measure will promote fairness to litigants and ensure efficient use of judicial resources during disputes resulting from construction defects.

In light of the concerns raised in testimony, your Committee has amended this measure by:

- (1) Deleting legislative findings;
- (2) Clarifying that the ten-year statute of repose applies to all actions, whether in contract, tort, statute, or otherwise, and that the standard statute of limitations periods apply to those actions;
- (3) Clarifying that an improvement is substantially complete upon the earliest of the issuance of a certificate of occupancy or the filing of an affidavit of publication



and notice of completion within the circuit court of the judicial circuit where the property is situated in compliance with section 507-43(f), Hawaii Revised Statutes (HRS);

- (4) Requiring each building or improvement be considered as a separate improvement for the purpose of determining the limitations period if the improvement consists of multiple buildings or improvements;
- (5) Adding definitions for "date of completion" and "improvement";
- (6) Clarifying that a notice of a claim of construction defect may be for any combination of defects in the design, construction, or remodeling of a dwelling or premises;
- (7) Deleting language that would have required homeowners to provide expert reports with the notice of a claim of construction defect;
- (8) Deleting language that would have:
 - (A) Required each individual claimant or class member for a claim of construction defect to comply with chapter 672E, HRS; and
 - (B) Prohibited a person from being permitted to join a class action brought under chapter 672E, HRS, unless that person first complied with the requirements of chapter 672E, HRS;
- (9) Requiring inspections and testing performed pursuant to section 672E-4, HRS, to be completed within nine months of the contractor's request to inspect, unless the parties agree or the court orders otherwise;
- (10) Inserting language specifying that an offer of settlement not accepted within the applicable time period pursuant to section 672E-5, HRS, or ten days after service for any subsequent offers, is deemed



withdrawn and evidence thereof shall not be admissible except to determine entitlement to recovery of costs;

- (11) Inserting language clarifying that parties required to attempt to resolve a claim through mediation are not required to attempt to resolve the dispute through mediation more than once;
- (12) Inserting language requiring mediation pursuant to section 672E-7, HRS, to be completed within twelve months of the filing of the notice of the claim, unless the parties agree or the court orders otherwise;
- (13) Inserting language restricting the pre-filing of lawsuits under section 672E-8, HRS, to no more than six months before the end of the applicable limitation or repose period;
- (14) Inserting a savings clause; and
- (15) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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 H.B. No. 420, H.D. 3, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 420, H.D. 3, S.D. 2.



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



KARL RHOADS, Chair



