

ACT 186

H. B. NO. 2190-72

A Bill for an Act Relating to the Limitation of Actions.

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

SECTION 1. Section 657-3 of the Hawaii Revised Statutes is amended to read as follows:

Sec. 657-3 Counterclaim. (a) In the cases enumerated in subsection (b), all the provisions of this part, or any other statute of limitations, shall apply to a claim stated as a counterclaim against an opposing party in the same manner as if an action thereon had been commenced at the time when the opposing party commenced his action or served the pleading stating his claim, or if a different time is applicable to the opposing party's claim under the provisions of this section then at that time.

(b) Subsection (a) shall apply if the claim stated as a counterclaim:

- (1) Consists of a liquidated debt or demand, or a debt or demand capable of being ascertained by calculation; or
- (2) Arises out of the transaction or occurrence that is the subject matter of the opposing party's claim.

(c) Within the meaning of this section a counterclaim includes a claim asserted against the plaintiff by a third-party defendant and in that situation the plaintiff is deemed an opposing party.

SECTION 2. Chapter 657 of the Hawaii Revised Statutes is amended by adding thereto a new Section 657-7.5, to read as follows:

"Sec. 657-7.5 Third-party defendants, time in which plaintiff may amend. When a defendant, against whom action has been timely brought, brings in a third-party defendant who is or may be liable to him or to the plain-

tiff for all or part of the plaintiff's claim against him, plaintiff within thirty days after the date of filing of the third-party defendant's answer, may assert against the third-party defendant any claim, arising out of the original transaction or occurrence that is also the subject matter of the third-party plaintiff's claim against the third-party defendant, which would have been timely if the third-party defendant had been joined originally as a defendant, notwithstanding any statutory period of limitations otherwise applicable to plaintiff's claim. Nothing herein shall preclude the plaintiff from asserting any claim which he might have asserted without the benefit of this section."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved June 3, 1972.)

*Edited accordingly.