

A Bill for an Act Relating to Civil Remedies and Defenses and Special Proceedings, Limitation of Action.

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

SECTION 1. The purpose of this Act is to provide that the limitation of actions extend coequally to both a principal and his surety pursuant to the provision of Chapter 657, Hawaii Revised Statutes.

SECTION 2. Section 657-8, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 657-8 Limitation of action for damages based on construction to improve real property.** No action to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of any condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of such injury, shall be brought against the owner of the real property or any other person or the surety of a person having an interest therein or in the improvement or against any person or the surety of a person constructing, altering, or repairing the improvement, or manufacturing or furnishing materials incorporated in the improvement, or performing or furnishing services in the design, planning, supervision, observation of construction or administration of construction contracts for any construction, alteration or repair of the improvement to real property more than two years after the cause of action has accrued, but in any event not more than six years after the date of completion of the improvement. This section shall not apply to actions for damages against the owner or any other person having an interest in the real property or improvement based on their negligent conduct in the repair or maintenance of the improvement or to actions for damages against surveyors for their own errors in boundary surveys. The term “improvement” as used in this section shall have the same meaning as in section 507-41 and the phrase “date of completion” as used in this section shall mean the time when there has been substantial completion of the improvement or the improvement has been abandoned. The filing of an affidavit of publication and notice of completion with the circuit court where the property is situated in compliance with section 507-43(f) shall be prima facie evidence of the date of completion. Inclusion of sureties in this section shall not be construed to prevent, limit, or extend any shorter period of limitation applicable to sureties provided for in any contract or bond or any other statute, nor to extend or add to the liability of any surety beyond that for which the surety agreed to be liable by contract or bond.”

SECTION 3. Savings clause. Notwithstanding the provisions of Section 2 of this Act, in the case of such an injury to property or the person or such an injury causing wrongful death, which injury occurred during the fifth or sixth year after the date of completion, an action to recover damages for such an injury or wrongful death may be brought within two years after the date on which such injury occurred (irrespective of the date of death) but in no event may such an action be brought more than eight years after the date of completion of the improvement.

SECTION 4. Except as provided in Section 2 above, nothing in this Act shall be construed as extending the period prescribed by the laws of this State for the bringing of any action.

SECTION 5. The amendments made by this Act shall apply to any action or proceeding which is commenced on or after the date of its approval and, to the extent permitted by law, to any action or proceeding which is pending on the date of such approval.

SECTION 6. New statutory material is underscored.\*

SECTION 7. This Act shall take effect upon its approval.

(Approved May 17, 1980.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.