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# A BILL FOR AN ACT

RELATING TO TORTS.

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

1           SECTION 1. Chapter 663, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:  
4           "§663-     Design professional as a tortfeasor; public  
5 highways. (a) Any other law to the contrary notwithstanding,  
6 including but not limited to sections 663-10.9, 663-11 to 663-13,  
7 663-16, 663-17, and 663-31, in any case involving tort  
8 claims relating to the maintenance and design of public highways,  
9 where a design professional is determined to be a tortfeasor  
10 along with one or more other joint tortfeasors, and the degree of  
11 negligence of the design professional is less than ten per cent,  
12 including the vicarious liability for the acts or omissions of  
13 the officers or employees of the design professional, the  
14 liability of the design professional for more than the design  
15 professional's pro rata share of negligence shall not exceed the  
16 policy limits of the design professional's professional errors  
17 and omissions liability coverage, provided that one of the  
18 following applies:

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- 1        (1) The contract amount for design professional services  
2        relating to the tort claim is \$250,000 or less; the  
3        amount of gross revenue received by the design  
4        professional during the calendar year immediately  
5        preceding the date of the contract was less than  
6        \$3,000,000; and the design professional is covered for  
7        the claim by a professional errors and omissions  
8        liability insurance policy with limits of no less than  
9        \$1,000,000 per occurrence and \$1,000,000 in the  
10       aggregate; or
- 11       (2) The contract amount for design professional services  
12       relating to the tort claim is \$500,000 or less; the  
13       amount of gross average annual revenue received by the  
14       design professional during the three calendar years  
15       preceding the date of the contract was less than  
16       \$4,500,000; and the design professional is covered for  
17       the claim by a professional errors and omissions  
18       liability insurance policy with limits of no less than  
19       \$1,000,000 per occurrence and \$2,000,000 in the  
20       aggregate.
- 21       (b) For purposes of this section:

1       "Contract amount" means the maximum charges permitted under  
2 the contract; provided that if two or more design professional  
3 firms share in a contract, the contract amount shall be the  
4 share of maximum charges permitted for the design professional  
5 against which the claim is asserted.

6       "Design professional" means a professional engineer,  
7 architect, surveyor, or landscape architect licensed under  
8 chapter 464."

9       SECTION 2. This Act does not affect rights and duties that  
10 matured, penalties that were incurred, and proceedings that were  
11 begun before its effective date.

12       SECTION 3. New statutory material is underscored.

13       SECTION 4. This Act shall take effect on July 1, 2050.

**Report Title:**

Joint Tortfeasors; Design Professionals

**Description:**

Clarifies the joint and several liability for design professionals in tort claims relating to the maintenance and design of public highways. Effective 7/1/2050. (SD1)