

JAN 27 2016

A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

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

1 SECTION 1. The Hawaii Legislature has created statutes of
2 limitations to provide that a party may not initiate a court
3 action if a certain period of time has elapsed from when a claim
4 has accrued. Hawaii common law, however, has consistently
5 stated that despite these legislatively created limitations, the
6 State may initiate and maintain actions without being subject to
7 statutes of limitations. In recognition of this longstanding
8 common law rule, the legislature in 1991 codified section 657-
9 1.5, Hawaii Revised Statutes, to confirm that it would apply to
10 the State unless another statute specifically designated the
11 State as subject to a limitations period.

12 In the context of claims brought by the State and its
13 agencies pursuant to chapter 480 of the Hawaii Revised Statutes,
14 the Hawaii legislature has never specifically designated the
15 State or its agencies as being subject to any limitation period.
16 Consequently, no limitation period can apply to actions brought
17 by the State under chapter 480, Hawaii Revised Statutes.

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1 The purpose of this measure is to amend section 480-24,
2 Hawaii Revised Statutes, to clarify that the statute of
3 limitations governing chapter 480, Hawaii Revised Statutes, does
4 not apply to the State and its agencies.

5 SECTION 2. Section 480-24, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§480-24 Limitation of actions. [~~(a)~~] Any action to
8 enforce a cause of action arising under this chapter shall be
9 barred unless commenced within four years after the cause of
10 action accrues, except as otherwise provided in [~~subsection (b)~~
11 ~~and~~] section 480-22. For the purpose of this section, a cause
12 of action for a continuing violation is deemed to accrue at any
13 time during the period of the violation.

14 ~~[(b) The following shall toll the time for commencement of~~
15 ~~actions by the State under this chapter if at any time:~~

16 ~~(1) Any cause of action arising under this chapter accrues~~
17 ~~against any person, the person is out of the State,~~
18 ~~the action may be commenced within the terms~~
19 ~~respectively limited, after the return of the person~~
20 ~~into the State, and if, after the cause of action has~~
21 ~~accrued, the person departs from and resides out of~~
22 ~~the State, the time of the person's absence shall not~~

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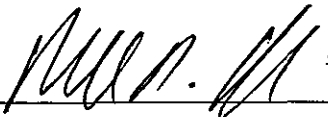
1 ~~be deemed or taken as any part of the time limited for~~
2 ~~the commencement of the action.~~

3 ~~(2) Any cause of action arising under this chapter accrues~~
4 ~~against any person, the person has petitioned for~~
5 ~~relief under the bankruptcy code, the time during~~
6 ~~which the bankruptcy case is pending shall not be~~
7 ~~deemed or taken as any part of the time limited for~~
8 ~~the commencement of the action.~~

9 ~~(3) Any cause of action arising under this chapter accrues~~
10 ~~against any person, there is a criminal action pending~~
11 ~~which arises out of the same occurrence, the time~~
12 ~~during which the criminal action is pending shall not~~
13 ~~be deemed or taken as any part of the time limited for~~
14 ~~the commencement of the action. As used in this~~
15 ~~paragraph, a criminal action is pending until its~~
16 ~~final adjudication in the trial court.] "~~

17 SECTION 3. Statutory material to be repealed is bracketed
18 and stricken.

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

20
21 INTRODUCED BY: 

22 BY REQUEST

S.B. NO. 2858

Report Title:

Cause of Action; Limitation of Action; Consumer Protection

Description:

Clarifies that the statute of limitations governing it does not apply to the State and its agencies with respect to chapter 480, Hawaii Revised Statutes. Repeals subsection (b) of section 480-24, Hawaii Revised Statutes. Technical amendments.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO CONSUMER PROTECTION.

PURPOSE: Amend section 480-24, Hawaii Revised Statutes (HRS), to clarify that the statute of limitations governing it does not apply to the State and its agencies.

MEANS: Repeal subsection (b) of section 480-24, HRS.

JUSTIFICATION: Hawaii common law has consistently stated that despite legislatively created limitations, the State may initiate and maintain actions without being subject to statutes of limitations. In recognition of this longstanding common law rule, the Legislature in 1991 codified section 657-1.5, HRS, to confirm that it would apply to the State unless another statute specifically designated the State as subject to a limitations period.

In the context of claims brought by the State and its agencies pursuant to chapter 480, HRS, section 480-24(b) could be misinterpreted to mean that the State or its agencies are subject to the limitations period. Consequently, by repealing subsection (b), no limitations period can apply to actions brought by the State under chapter 480.

Impact on the public: None.

Impact on the department and other agencies: None.

GENERAL FUNDS: None.

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OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: CCA-110.

OTHER AFFECTED
AGENCIES: Department of the Attorney General.

EFFECTIVE DATE: Upon approval.