

STAND. COM. REP. NO.

515

Honolulu, Hawaii

FEB 19 , 2021

RE: H.B. No. 357
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary & Hawaiian Affairs, to which was referred H.B. No. 357 entitled:

"A BILL FOR AN ACT RELATING TO STATUTE OF LIMITATIONS,"

begs leave to report as follows:

The purpose of this measure is to establish a two-year statute of limitations for all actions for a regulatory taking against the State, including a claim brought under article I, section 20, of the Hawaii State Constitution, regarding eminent domain.

Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that a recent Hawaii Supreme Court decision, *DW Aina Le'a Dev., LLC v. State Land Use Comm'n*, 148 Haw. 396, 477 P.3d 836, 837 (2020), held that the statute of limitations for a regulatory taking is six years, pursuant to Hawaii's catch-all statute of limitations for personal actions. This measure would establish that regulatory takings claims are subject to the same two-year statute of limitations as other monetary claims against the State. Your Committee further finds that the two-year statute of limitations should apply to all types of inverse condemnation claims, regulatory and physical, since both can subject the State to high financial exposure.

2021-1551 HB357 HD1 HSCR HMSO



Establishing a two-year state of limitations for inverse condemnation claims will allow the State to take remedial measures to limit liability.

Your Committee has amended this measure by:

- (1) Changing the phrase "regulatory taking" to "inverse condemnation" to clarify that all types of inverse condemnation, physical and regulatory, are subject to the two-year statute of limitations; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 357, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 357, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary &
Hawaiian Affairs,



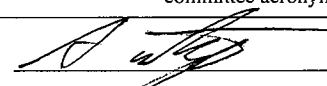
MARK M. NAKASHIMA, Chair



State of Hawaii
House of Representatives
The Thirty-first Legislature

HS 2515

Record of Votes of the Committee on Judiciary & Hawaiian Affairs

Bill/Resolution No.: HB 357	Committee Referral: JHA, FIN	Date: 2-9-21		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
JHA Members	Ayes	Ayes (WR)	Nays	Excused
1. NAKASHIMA, Mark M. (C)	✓			
2. MATAYOSHI, Scot Z. (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. KOBAYASHI, Dale T.	✓			
5. LoPRESTI, Matthew S.	✓			
6. LOWEN, Nicole E.	✓			
7. McKELVEY, Angus L.K.	✓			
8. NAKAMURA, Nadine K.	✓			
9. TAKUMI, Roy M.	✓			
10. TODD, Chris				✓
11. TOKIOKA, James Kunane	✓			
12. WARD, Gene	✓			
TOTAL (12)	11	0	0	1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				