

STAND. COM. REP. NO. 1192

Honolulu, Hawaii

MAR 25 2021

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

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 357, H.D. 1, entitled:

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

begs leave to report as follows:

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

Your Committee received testimony in support of this measure from the Department of Transportation, Department of Land and Natural Resources, Department of the Attorney General, and one individual.

Your Committee finds that the decision of the Hawaii Supreme Court in *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. Your Committee further finds that, in light of this decision, the explicit establishment of a statute of limitations applicable to all types of inverse condemnation actions against the State will bring certainty and predictability to the timeframe within which a



plaintiff must file this type of action against the State or be barred from pursuing the claim. Your Committee additionally finds that the clearest and most effective way to establish a statute of limitations consistent with other claims against the State is to explicitly include claims brought under article I, section 20, of the Hawaii State Constitution with other claims against the State.

Accordingly, your Committee has amended this measure by:

- (1) Removing language establishing a two-year statute of limitations for inverse condemnation claims brought against the State as part of the general laws governing personal actions;
- (2) Including claims brought under article I, section 20, of the Hawaii State Constitution with other claims against the State for all procedural purposes, including the two-year statute of limitations generally applied to claims against the State; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



