

JAN 27 2010

S.B. NO. 2832

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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. Section 663-10.98, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) Any other law to the contrary notwithstanding,  
4 including but not limited to sections 663-10.9, 663-11 to  
5 663-13, 663-16, 663-17, and 663-31, in any case involving tort  
6 claims relating to the design, construction, and maintenance of  
7 highways, where a design professional is determined to be a  
8 joint tortfeasor along with one or more other joint tortfeasors,  
9 and the degree of negligence of the design professional is ten  
10 per cent or less, including the vicarious liability of the  
11 design professional for the negligent acts or omissions of the  
12 officers and employees of the design professional, the liability  
13 of the design professional for more than the design  
14 professional's pro rata share of negligence shall not exceed the  
15 available policy limits of the design professional's  
16 professional liability coverage; provided that one of the  
17 following applies:



1           (1) The contract amount for design professional services  
2           relating to the tort claim is \$500,000 or less and the  
3           design professional is covered for the claim by a  
4           professional liability insurance policy with limits of  
5           no less than \$1,000,000 per occurrence and \$1,000,000  
6           in the aggregate; or

7           (2) The contract amount for design professional services  
8           relating to the tort claim is \$1,000,000 or less and  
9           the design professional is covered for the claim by a  
10          professional liability insurance policy with limits of  
11          no less than \$1,000,000 per occurrence and \$2,000,000  
12          in the aggregate.

13 If a design professional's liability is limited as described in  
14 this section, then the other joint tortfeasors shall only be  
15 jointly and severally liable for that portion of the degree of  
16 negligence not attributable to the design professional, to the  
17 degree otherwise authorized by law and not exempt under section  
18 663-10.9."

19           SECTION 2. This Act does not affect rights and duties that  
20           matured, penalties that were incurred, and proceedings that were  
21           begun before its effective date.

22           SECTION 3. New statutory material is underscored.



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

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INTRODUCED BY:

Norman Sabarwal



**Report Title:**

Joint and Several Liability; Limitation; Joint Tortfeasors

**Description:**

Limits joint liability for other joint tortfeasors when a design professional's liability for tort claims relating to highways to that portion of negligence not attributable to the design professional.

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

