

ACT 105

H. B. NO. 2045-72

A Bill for an Act Relating to the Limitation of Actions, Amending Chapter 657 of the Hawaii Revised Statutes.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 657 of the Hawaii Revised Statutes is hereby amended as follows:

(a) Section 657-1 is amended to read as follows:

“Sec. 657-1. Six years. The following actions shall be commenced within six years next after the cause of action accrued, and not after:

- (1) Actions for the recovery of any debt founded upon any contract, obligation, or liability, excepting such as are brought upon the judgment or decree of a court;
- (2) Actions upon judgments or decrees rendered in any court not of record in the State, or, subject to section 657-9, in any court of record in any foreign jurisdiction;
- (3) Actions for taking or detaining any goods or chattels, including actions in the nature of replevin;
- (4) Personal actions of any nature whatsoever not specifically covered by the laws of the State.

(b) Section 657-2 is amended by inserting in the first line after the word “actions” the words “in the nature”.

(c) A new section 657-3.5 is added, to read as follows:

Sec. 657-3.5. Relation back of amendments. An amendment pleading relates back to the date of the original pleading as provided by the rules of court.

Nothing herein limits or affects section 657-3.”

(d) Section 657-5 is amended by changing the word “in” in the second line to read “of”.

(e) Section 657-7 is amended by changing the word “damages” in the second line to read “damage”.

(f) Section 657-11 is amended by deleting from the next to the last line the words “filed with the clerk of the court” and inserting in lieu thereof “commenced”.

(g) Section 657-14 is amended by deleting from the last line the word “of” which precedes the words “right of action” and inserting in lieu thereof “the”.

(h) Section 657-16 is amended to read as follows:

“Sec. 657-16. Extension of time by death.

If any person entitled to bring any action specified in this part, dies before the expiration of the time herein limited for the commencement of the action, if the cause of action survives to his representatives the cause of action shall not be barred sooner than four months after the date of death. A cause of action which, but for this section, would have been barred less than four months after death, is barred after four months unless tolled.”

(i) Section 657-17 is amended to read as follows:

“Sec. 657-17. Death of person liable. The running of the limitation period upon any personal action, not barred as of the date of death of the person against whom the cause of action has accrued, shall be suspended for a period of four months from the date of death but no longer, except as otherwise provided.”

(j) Section 657-18 is amended by inserting in the second line after the word “part” the words “or section 663-3”, and by deleting from the third line the word “herein”.

(k) Section 657-19 is amended to read as follows:

“Sec. 657-19. Extension by injunction. Whenever the commencement of any action is stayed by an injunction of any court, the time during which the injunction is in force shall not be deemed any portion of the time limited in this part or section 663-3 for the commencement of the action.”

(l) Section 657-20 is amended to read as follows:

“Sec. 657-20. Extension by fraudulent concealment. If any person who is liable to any of the actions mentioned in this part or section 663-3, fraudulently conceals the existence of the cause of action or the identity of any person who is liable for the claim from the knowledge of the person entitled to bring the action, the action may be commenced at any time within six years after the person who is entitled to bring the same discovers or should have discovered, the existence of the cause of action or the identity of the person who is liable for the claim, although the action would otherwise be barred by the period of limitations.”

(m) Section 657-21 is amended by deleting from the first line the words “a suit” and inserting in lieu thereof “an action”.

(n) Section 657-22 is amended by deleting from the next to the last line the words “a suit” and inserting in lieu thereof “an action”, and by inserting in the last line preceding the period the words “or section 663-3”.

(o) Section 657-34 is amended by deleting from the second line the comma which follows the word “action”.

(p) Section 657-35 is amended by deleting from the third, fourth, and fifth lines the words and punctuation “and no determination or judgment has been had of or upon the title, right, or action which accrued to him,”, and by deleting from the fifth line the comma which follows the word “made”.

(q) Section 657-12 and section 657-37 are deleted.

SECTION 2. The amendments made by this Act shall not affect or repeal any other act passed at the same session of the legislature, and all such acts shall have full effect. So far as such acts conflict with any provision contained in this Act, they shall have the effect of subsequent acts.

SECTION 3. This Act upon its approval shall take effect on July 1, 1973, provided, that the amendment of section 657-16 shall not shorten the time allowed for the commencement of an action by the representatives of a person who died before July 1, 1973.

(Approved May 23, 1972.)