



HouseJudiciary@rilegislature.gov

June 4, 2024

Representative Robert E. Craven, Sr.
Chair, House Judiciary Committee
Rhode Island State House
Providence, RI 02903

Re: House 8318 – An Act Relating to Courts and Civil Procedure Generally – Procedure Generally - Cause of Action

Dear Chair Craven:

This statement in opposition to H.8318 is submitted by the American Property Casualty Insurance Association (APCIA).¹ House 8318 seeks to impose a unique and lengthy statute of limitations for certain claims arising out of situation involving the so-called Washington Bridge. Under its provisions, any such action or proceeding would need to be commenced within ten (10) years of the discovery by the claimant of the existence and basis for any claim or by December 31, 2033, whichever is later.

This committee has had long experience with the issue of statutes of limitation over the past several sessions and is familiar with the public policy balances that underlies such statutes. APCIA respectfully suggests that, at a high level, many of those foundational elements are in play with this bill as well.

Finite statutes of limitations are a foundational element of a fair and well-ordered civil justice system. Statutes of limitation exist because as time passes, evidence is lost, memories become unreliable, witnesses or defendants pass away, and claims become stale. Further, a statute of limitations allows organizations to accurately gauge their liability exposure and make financial, insurance coverage, and document retention decisions accordingly. These laws promote justice, discourage unnecessary delay, and preclude the prosecution of stale or fraudulent claims. They are essential to a fair and well-ordered civil justice system.

Opening the door to extending the statute of limitations for specific incidents, as H. 8318 does, creates a slippery slope that will only undermine Rhode Island's civil justice system. Over time, there will be many other sympathetic plaintiffs, failing infrastructure, important causes, and unpopular industries and

¹ Representing nearly 65% of the U.S. property casualty insurance market, APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers. APCIA represents the broadest cross-section of home, auto, and business insurers of any national trade association. APCIA members represent all sizes, structures, and regions, which protect families, communities, and businesses in the U.S. and across the globe. Several APCIA members are located in Rhode Island and many more do business here. Together, APCIA members write almost 68.5% of the commercial insurance sold in the state. Unfortunately, a scheduling conflict prevents me from being before the committee at this hearing.

defendants. Allowing incident specific exceptions to the statute of limitations will result in future calls to permit claims alleging physical or economic injuries based on alleged conduct that occurred decades ago to proceed in Rhode Island courts.

Rhode Island would be an outlier if claims related to the Washington Bridge are allowed to be filed through 2033, as this would create the longest prospective statute of limitations in the nation for infrastructure-type claims, albeit a limited class of such claims.

Notably, there have been many tragic and catastrophic infrastructure type events such as the 2021 collapse of the Surfside Condominium in Florida² or the recent Key Bridge collapse in Maryland, and while these scenarios may be heart-breaking, statutes of limitations were not expanded for these catastrophic incidents.

Moreover, this legislation will not accomplish the public policy behind this bill. If the intent is to ensure that individuals and organizations responsible for potential construction, supervisory and design issues are held accountable, such conduct will only change if standards going forward are strengthened. And forcing insurers to potentially defend or indemnify claims that will result from this legislation defeats that public policy as well. In this regard, it is also worth noting that Rhode Island is already in the minority of states with its generous 10-year statute of repose for actions against contractors, engineers, or architects based on design.³

In sum, if Rhode Island extends the statute of limitations for the Washington Bridge an additional 10 years, what assurances do Rhode Island businesses, nonprofit organizations and others have that, at some distant point in the future, they will be subject to lawsuits based on allegations about actions they took or should have taken so long ago and the conduct of employees who are long gone?

Taking the approach proposed by H.8318 only serves to make the civil justice system in Rhode Island unpredictable, unreliable, and unfair. It is for these reasons that APCIA opposes this bill and asks that it be held for further study.

Very truly yours,



Francis C. O'Brien
Vice President, State Gov't. Relations

² Following the Surfside collapse, FL's statute of repose was actually shortened from 10 years to 7 years as was its statute of limitations for construction defects in certain respects. See <https://www.cozen.com/news-resources/publications/2023/florida-shortens-time-to-file-construction-claims>

³ Based upon due process and fairness and foreseeability doctrines, Rhode Island has a statute of limitations as well as a statute of repose, limiting actions arising from construction projects to a generous 10 years. Unlike statutes of limitations, a statute of repose is an absolute bar on claims after a specified time measured from a discrete event, without regards as to when a defect was or should've been discovered. Rhode Island's 10-year statute of repose is intended to protect construction firms from lawsuits years and years after a project has been completed. This ensures evidence is objective and related to the work completed.