



June 4, 2024

Honorable Robert Craven, Sr.
Chairman, House Judiciary Committee
Rhode Island State House
Providence, RI 02903

RE: H.8318, An Act Relating to Courts and Civil Procedure – Causes of Action

Chairman Craven and Committee Members,

The undersigned members of the Rhode Island Business Coalition respectfully wish to express concerns related to the passage of H.8318, An Act Relating to Courts and Civil Procedure – Causes of Action.

This new bill, while directed at the Washington Bridge, gives rise to concerns about retroactive changes to statute of limitations law, in general.

Under current law, any person, firm, corporation or legal entity that is involved in the design, construction, repair, modification, etc. to real property can be sued for damages or injuries within ten years of the “substantial completion” of a construction project. This was litigated in 1985 and upheld by the Rhode Island Supreme Court; and it is similar to laws in 46 other states.

H.8318 changes the law as it pertains to the Washington bridge by extending the statute of limitations to ten years from the “date of discovery” or by December 1, 2033, whichever is later, unless the case would be time barred as of the date this legislation becomes law. So, if the bill were to pass into law July 1, 2024, any entity involved in the Washington bridge where “substantial completion” did not occur before July 1, 2014, would be reachable to sue for liability. In some instances, this extends the window of liability to close to 20 years.

There are several concerns regarding this legislation. First the general principle of retroactive changes to law. Businesses and others must be able to depend and rely upon a set of requirements and conditions established in law. To reach back and change those understandings will have an impact on how those who do business in Rhode Island will conduct business. How can a vendor of the state know for sure what the state may change after the fact?

While we understand there is a desire to reach parties involved in the Washington bridge project, we have concerns that the passage of the bill may bring unintended consequences. Insurance companies rely on statutes of limitations and statutes of repose to assess risk in setting premiums or deciding to insure entities. If the state can pass a law to change the statutes of limitations or the statutes of repose retroactively, insurers or insured cannot agree on an appropriate rate or duration of coverage. They may choose to artificially increase rates to cover potential unforeseen changes in duration or conditions, or they may choose not to insure projects in Rhode Island.

The other potential risk involves the desire of construction related entities to bid on large projects should they understand that the General Assembly may change the liability landscape after a project is complete. Fewer bidders often translate to higher costs to the state and a potential slow-down in project completion timeframes.

Lastly, while H.8318 specifically applies to the Washington bridge project only, the legislation does send a signal to the entire business community that liability rules can be changed in any industry.

For these reasons, we ask the committee not to pass H.8318. Thank you for your consideration of our concerns.

Sincerely,

American Council of Engineering Companies of RI

East Greenwich Chamber of Commerce

Energy Marketers Association Rhode Island

Greater Newport Chamber of Commerce

National Federation of Independent Business

Rhode Island Beverage Association

Rhode Island Builders Association

Rhode Island Manufacturers Association

Rhode Island Marine Trades Association

Rhode Island Mortgage Bankers Association

Rhode Island Small Business Economic Summit Regulations Committee

Rhode Island Small Business Economic Summit Tax and Budget Committee

Rhode Island Society of Certified Public Accountants

Rhode Island Staffing Association

Sustainable Benefits Strategies, LLC

The Rhode Island Business Coalition represents 50 industries and 6,280 businesses that employ 231,200 people throughout Rhode Island.