

**COUNCIL OF THE COUNTY OF MAUI**

**POLICY, ECONOMIC DEVELOPMENT,  
AND AGRICULTURE COMMITTEE**

July 6, 2018

**Committee  
Report No. \_\_\_\_\_**

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy, Economic Development, and Agriculture Committee, having met on May 14, 2018, and June 5, 2018, makes reference to County Communication 17-11, from Council Chair Mike White, relating to proposed amendments to the Revised Charter of the County of Maui (1983), as amended ("Charter").

By correspondence dated May 17, 2017, the Council Chair transmitted a proposed resolution entitled "PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE COUNTY OF MAUI (1983), AS AMENDED, AMENDING SECTION 13-6, RELATING TO CLAIMS." The purpose of the proposed resolution is to place on the next General Election ballot the question of whether Section 13-6 of the Charter shall be amended to require that claims be filed with the Department of the Corporation Counsel instead of the Office of the County Clerk.

At the request of the Chair of your Committee, the Department of the Corporation Counsel transmitted a revised proposed resolution, approved as to form and legality, to insert an effective date of January 2, 2019, in the ballot question, and change references to an office or department to an individual, pursuant to Section 46-72, Hawaii Revised Statutes ("HRS").

Your Committee notes Article 14 of the Charter sets forth procedures related to amending the Charter. The Council, by resolution adopted after two readings on separate days and passed by a vote of six or more members, may place a Charter amendment question on the ballot at the next General Election.

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As set forth in the revised proposed resolution, Section 13-6 of the Charter establishes the process by which claims may be filed with the County. The provision requires that claims be filed with the County Clerk within the time period prescribed by law. Upon receipt of the claim, the Office of the County Clerk prepares an acknowledgment to the claimant and forwards the claim to the third-party administrator. Apart from forwarding requests and communications relating to the claim to the Department of the Corporation Counsel, Risk Management Division, the Office of the County Clerk has no further part in the claims process.

Your Committee notes Section 46-72, HRS, provides, in pertinent part, that a claim against the County shall be filed with “the individual identified in the respective county’s charter.” Section 13-111, Revised Charter of the City and County of Honolulu, provides for claims against the City and County of Honolulu to be filed with the Corporation Counsel.

Your Committee further notes the proposed Charter amendment would promote Sections 3-9.2 and 3-9.3 of the Charter, to eliminate duplication and overlapping of services, activities, and functions; and to consolidate services, activities, and functions of a similar nature.

Your Committee agreed that amending the Charter to require that claims be filed with the Corporation Counsel instead of the County Clerk would streamline the claims process, increase clarity for claimants, and eliminate bureaucratic inefficiencies.

Your Committee voted 6-1 to recommend passage of the revised proposed resolution on first reading. Committee Chair Sugimura, Vice-Chair Crivello, and members Carroll, Cochran, King, and White voted “aye.” Committee member Guzman voted “no.” Committee members Atay and Hokama were excused.

Your Policy, Economic Development, and Agriculture Committee **RECOMMENDS** that Resolution \_\_\_\_\_, attached hereto, entitled “PROPOSING AN AMENDMENT TO THE REVISED CHARTER OF THE

COUNCIL OF THE COUNTY OF MAUI

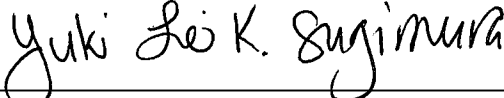
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COUNTY OF MAUI (1983), AS AMENDED, AMENDING SECTION 13-6, RELATING TO CLAIMS," be PASSED ON FIRST READING and be ORDERED TO PRINT.

This report is submitted in accordance with Rule 8 of the Rules of the Council.

  
\_\_\_\_\_  
YUKI LEI K. SUGIMURA, Chair

pea:cr:18010(1)aa:ske

# Resolution

No. \_\_\_\_\_

PROPOSING AN AMENDMENT TO THE REVISED  
CHARTER OF THE COUNTY OF MAUI (1983), AS  
AMENDED, AMENDING SECTION 13-6,  
RELATING TO CLAIMS

WHEREAS, Section 13-6 of the Revised Charter of the County of Maui (1983), as amended (“Charter”), establishes the process by which claims may be filed with the County; and

WHEREAS, this provision stipulates that claims must be filed with the County Clerk within the time period provided by law; and

WHEREAS, once the County Clerk receives a written claim, the Office of the County Clerk prepares an acknowledgement notice to the claimant, and forwards the claim to the third-party administrator; and

WHEREAS, the Office of the County Clerk provides copies of the notice to the third-party administrator to the Mayor, Corporation Counsel, and Council Chair; and

WHEREAS, the Office of the County Clerk has no further part in the claims process, other than to forward requests and communications seeking clarification and information on, or the status or disposition of, a claim to the Department of the Corporation Counsel, Risk Management Division; and

WHEREAS, Section 46-72, Hawaii Revised Statutes, provides, in part, for a claim against the County to be filed with “the individual identified in the respective county’s charter”; and

WHEREAS, Section 13-111, Revised Charter of the City and County of Honolulu, provides, in part, for claims against the City and County of Honolulu to be “filed with the corporation counsel”; and

WHEREAS, providing for claims to be filed with the Corporation Counsel instead of the County Clerk would assist in streamlining the claims process, provide greater clarity for claimants, and eliminate bureaucratic inefficiencies; now, therefore,

**Resolution No. \_\_\_\_\_**

BE IT RESOLVED by the Council of the County of Maui:

1. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that Section 13-6 of the Charter, pertaining to claims, be amended to read as follows:

“No action shall be maintained for the recovery of damages for any injury to person or property by reason of negligence of any officer or employee of the county unless a written statement stating fully when, where, and how the injuries occurred, the extent thereof, and the amount claimed therefor, has been filed with the [county clerk] corporation counsel within the time period as provided by law.”; and

2. That material to be repealed is bracketed and new material is underscored; and
3. That, pursuant to Section 14-2(1) of the Charter, this resolution be submitted to the voters of the County of Maui at the next general election; and
4. That the County Clerk prepare the necessary ballot for presentation to the voters at the next general election; and
5. That, pursuant to Section 14-1(1) of the Charter, it hereby proposes that the following question be placed on the next general election ballot:

"Shall Section 13-6 of the Charter be amended, effective January 2, 2019, to require that claims be filed with the Corporation Counsel instead of the County Clerk?"; and

6. That pursuant to Section 14-2(2) of the Charter, the County Clerk shall publish the proposed amendment as set forth in this resolution in its entirety in a newspaper of general circulation; and
7. That, upon approval by the majority of the voters voting on the proposed amendment, the amendment proposed herein shall take effect as of January 2, 2019; and

Resolution No. \_\_\_\_\_

8. That certified copies of this resolution be transmitted to the Mayor and the Corporation Counsel.

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.

Department of the Corporation Counsel

County of Maui

pea:misc:010(1)areso01