

AN ACT

To amend sections 2305.09 and 2305.19 of the Revised Code and to amend Section 3 of Am. Sub. H.B. 51 of the 125th General Assembly to modify the period within which a plaintiff may commence a new action after the reversal of a judgment for the plaintiff or the plaintiff's failure otherwise than upon the merits, to include within the four-year statute of limitations for certain actions an action for relief on the grounds of a physical or regulatory taking of real property, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 2305.09 and 2305.19 of the Revised Code be amended to read as follows:

Sec. 2305.09. An action for any of the following causes shall be brought within four years after the cause thereof accrued:

(A) For trespassing upon real property;

(B) For the recovery of personal property, or for taking or detaining it;

(C) For relief on the ground of fraud;

(D) For an injury to the rights of the plaintiff not arising on contract nor enumerated in sections 1304.35, 2305.10 to 2305.12, and 2305.14 ~~and 1304.35~~ of the Revised Code;

(E) For relief on the grounds of a physical or regulatory taking of real property.

If the action is for trespassing under ground or injury to mines, or for the wrongful taking of personal property, the causes thereof shall not accrue until the wrongdoer is discovered; nor, if it is for fraud, until the fraud is discovered.

Sec. 2305.19. ~~(A) In an any action that is commenced, or attempted to be commenced, if in due time a judgment for the plaintiff is reversed, or if the plaintiff fails otherwise than upon the merits, and the time limited for the commencement of such action at the date of reversal or failure has expired, the plaintiff; or, if he the plaintiff dies and the cause of action survives, his~~

~~representatives~~ the plaintiff's representative may commence a new action within one year after ~~such the date of the reversal of the judgment or the plaintiff's failure otherwise than upon the merits or within the period of the original applicable statute of limitations, whichever occurs later.~~ This ~~provision~~ division applies to any claim asserted in any pleading by a defendant. ~~If~~

(B) ~~If~~ the defendant in an action described in division (A) of this section is a foreign or domestic corporation, ~~foreign or domestic~~, and whether its charter prescribes the manner ~~and or~~ place, or either, of service of process ~~thereon on the defendant~~, and if it passes into the hands of a receiver before the expiration of ~~such the one year period or the period of the original applicable statute of limitations, whichever is applicable, as described in that division~~, then service to be made within ~~the one year~~ following ~~such the~~ original service or attempt to begin the action may be made upon ~~such that~~ receiver or ~~his~~ the receiver's cashier, treasurer, secretary, clerk, or managing agent, or if none of these officers can be found, by a copy left at the office or the usual place of business of ~~such any of those~~ agents or officers of the receiver with the person having charge ~~thereof of the office or place of business~~. If ~~such that~~ corporation is a railroad company, summons may be served on any regular ticket or freight agent of the receiver, and if there is no ~~such regular ticket or freight agent of the receiver~~, then upon any conductor of the receiver, in any county in the state in which the railroad is located. The summons shall be returned as if served on ~~such that~~ defendant corporation.

SECTION 2. That existing sections 2305.09 and 2305.19 of the Revised Code are hereby repealed.

SECTION 3. That Section 3 of Am. Sub. H.B. 51 of the 125th General Assembly be amended to read as follows:

Sec. 3. (A) Sections 2106.01, 2106.02, ~~2107.19, 2109.301, and 2109.32; 2113.53, 2117.06, 2117.07, 2117.11, and 2117.12~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. H.B. 51 of the 125th General Assembly, apply to estates that are in existence or are initiated on or after ~~the effective date of this act~~ April 8, 2004.

(B) Section 2101.163 of the Revised Code, as enacted by ~~this act~~ Am. Sub. H.B. 51 of the 125th General Assembly, applies to civil actions and proceedings that are pending in or brought before the probate court on or after ~~the effective date of this act~~ April 8, 2004.

(C) Sections 2107.19, 2109.301, 2113.53, 2117.06, 2117.07, 2117.11, and 2117.12 of the Revised Code, as amended by this act, apply to estates of decedents who die on or after April 8, 2004.

SECTION 4. That existing Section 3 of Am. Sub. H.B. 51 of the 125th General Assembly is hereby repealed.

SECTION 5. Sections 3 and 4 of this act shall take effect on April 8, 2004.

SECTION 6. Sections 2305.09 and 2305.19 of the Revised Code shall take effect ninety days after the effective date of this act.

SECTION 7. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to prevent confusion and potential constitutional problems with the application of certain provisions of Am. Sub. H.B. 51 of the 125th General Assembly to pending decedent's estates. Therefore, this act shall go into immediate effect.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 161

5

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____