

As Reported by the Senate Judiciary Committee

133rd General Assembly

Regular Session

2019-2020

Sub. H. B. No. 251

Representatives Lang, Hillyer

Cosponsors: Representatives Lipps, Riedel, Sheehy, Romanchuk, Becker, Reineke, Hambley, Butler, Brown, Crossman, Denson, Fraizer, Ginter, Green, Greenspan, Holmes, A., Hoops, Kick, Lanese, Leland, Manning, G., Merrin, Miranda, Oelslager, Patton, Perales, Roemer, Rogers, Scherer, Seitz, Smith, T., Sobecki, Swearingen, Wiggam, Wilkin

Senator Eklund

A BILL

To amend sections 2305.03, 2305.06, 2305.07, and 1
2305.11 and to enact section 2305.117 of the 2
Revised Code and to amend Section 22 of H.B. 197 3
of the 133rd General Assembly to shorten the 4
period of limitations for actions upon a 5
contract; to make changes to the borrowing 6
statute pertaining to applicable periods of 7
limitations; to establish a statute of repose 8
for a legal malpractice action; to modify the 9
tolling of criminal, civil, administrative, and 10
other time limitations; and to declare an 11
emergency. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2305.03, 2305.06, 2305.07, and 13
2305.11 be amended and section 2305.117 of the Revised Code be 14
enacted to read as follows: 15

Sec. 2305.03. (A) Except as provided in division (B) of 16
this section and unless a different limitation is prescribed by 17
statute, a civil action may be commenced only within the period 18
prescribed in sections 2305.04 to 2305.22 of the Revised Code. 19
If interposed by proper plea by a party to an action mentioned 20
in any of those sections, lapse of time shall be a bar to the 21
action. 22

(B) No civil tort action, as defined in section 2305.236 23
of the Revised Code, that is based upon a cause of action that 24
accrued in any other state, territory, district, or foreign 25
jurisdiction may be commenced and maintained in this state if 26
the period of limitation that applies to that action under the 27
laws of that other state, territory, district, or foreign 28
jurisdiction has expired or the period of limitation that 29
applies to that action under the laws of this state has expired. 30

(C) No action upon a specialty or an agreement, contract, 31
or promise in writing, other than an action described in 32
division (C) of section 2305.07 of the Revised Code, that seeks 33
post-default interest at a rate governed by or provided in the 34
substantive laws of any other state, territory, district, or 35
foreign jurisdiction, and in excess of the rate of interest 36
provided by section 5703.47 of the Revised Code, may be 37
commenced and maintained in this state if the period of 38
limitation that applies to that action under the laws of that 39
other state, territory, district, or foreign jurisdiction has 40
expired or the period of limitation that applies to that action 41
under the laws of this state has expired. 42

(D) No action described in division (C) of section 2305.07 43
of the Revised Code that seeks post charge-off interest at a 44
rate governed by or provided in the substantive laws of any 45

other state, territory, district, or foreign jurisdiction, and 46
in excess of the rate of interest provided by section 5703.47 of 47
the Revised Code, may be commenced and maintained in this state 48
if the period of limitation that applies to that action under 49
the laws of that other state, territory, district, or foreign 50
jurisdiction has expired or the period of limitation that 51
applies to that action under the laws of this state has expired. 52

Sec. 2305.06. Except as provided in sections 126.301~~and,~~ 53
1302.98, 1303.16, 1345.10, and 2305.04 of the Revised Code, an 54
action upon a specialty or an agreement, contract, or promise in 55
writing shall be brought within ~~eight~~six years after the cause 56
of action accrued. 57

Sec. 2305.07. (A) Except as provided in sections 126.301 58
and 1302.98 of the Revised Code, an action upon a contract not 59
in writing, express or implied, ~~or shall be brought within four~~ 60
years after the cause of action accrued. 61

(B) An action upon a liability created by statute other 62
than a forfeiture or penalty, shall be brought within six years 63
after the cause ~~thereof~~of action accrued. 64

(C) Except as provided in sections 1303.16, 1345.10, and 65
2305.04 of the Revised Code, and notwithstanding divisions (A) 66
and (B) of this section, section 1302.98, and division (B) of 67
section 2305.03 of the Revised Code, an action arising out of a 68
consumer transaction incurred primarily for personal, family, or 69
household purposes, based upon any contract, agreement, 70
obligation, liability, or promise, express or implied, including 71
an account stated, whether or not reduced to writing or signed 72
by the party to be charged by that transaction, shall be 73
commenced within six years after the cause of action accrued. 74

Sec. 2305.11. (A) An action for libel, slander, malicious prosecution, or false imprisonment, an action for malpractice other than an action upon a medical, dental, optometric, or chiropractic claim, an action for legal malpractice against an attorney or a law firm or legal professional association, or an action upon a statute for a penalty or forfeiture shall be commenced within one year after the cause of action accrued, provided that an action by an employee for the payment of unpaid minimum wages, unpaid overtime compensation, or liquidated damages by reason of the nonpayment of minimum wages or overtime compensation shall be commenced within two years after the cause of action accrued.

(B) A civil action for unlawful abortion pursuant to section 2919.12 of the Revised Code, a civil action authorized by division (H) of section 2317.56 of the Revised Code, a civil action pursuant to division (B) of section 2307.52 of the Revised Code for terminating or attempting to terminate a human pregnancy after viability in violation of division (A) of section 2919.17 of the Revised Code, and a civil action for terminating or attempting to terminate a human pregnancy of a pain-capable unborn child in violation of division (E) of section 2919.201 of the Revised Code shall be commenced within one year after the performance or inducement of the abortion or within one year after the attempt to perform or induce the abortion in violation of division (A) of section 2919.17 of the Revised Code or division (E) of section 2919.201 of the Revised Code.

(C) As used in this section, "medical claim," "dental claim," "optometric claim," and "chiropractic claim" have the same meanings as in section 2305.113 of the Revised Code.

Sec. 2305.117. (A) Except as otherwise provided in this 105
section, an action upon a legal malpractice claim against an 106
attorney or a law firm or legal professional association shall 107
be commenced within one year after the cause of action accrued. 108

(B) Except as to persons within the age of minority or of 109
unsound mind as provided by section 2305.16 of the Revised Code, 110
and except as provided in division (C) of this section, both of 111
the following apply: 112

(1) No action upon a legal malpractice claim against an 113
attorney or a law firm or legal professional association shall 114
be commenced more than four years after the occurrence of the 115
act or omission constituting the alleged basis of the legal 116
malpractice claim. 117

(2) If an action upon a legal malpractice claim against an 118
attorney or a law firm or legal professional association is not 119
commenced within four years after the occurrence of the act or 120
omission constituting the alleged basis of the claim, then, any 121
action upon that claim is barred. 122

(C) (1) If a person making a legal malpractice claim 123
against an attorney or a law firm or legal professional 124
association, in the exercise of reasonable care and diligence, 125
could not have discovered the injury resulting from the act or 126
omission constituting the alleged basis of the claim within 127
three years after the occurrence of the act or omission, but, in 128
the exercise of reasonable care and diligence, discovers the 129
injury resulting from that act or omission before the expiration 130
of the four-year period specified in division (B)(1) of this 131
section, the person may commence an action upon the claim not 132
later than one year after the person discovers the injury 133
resulting from that act or omission. 134

(2) A person who commences an action upon a legal malpractice claim under the circumstances described in division (C) (1) of this section has the affirmative burden of proving, by clear and convincing evidence, that the person, with reasonable care and diligence, could not have discovered the injury resulting from the act or omission constituting the alleged basis of the claim within the three-year period described in that division.

Section 2. That existing sections 2305.03, 2305.06, 2305.07, and 2305.11 of the Revised Code are hereby repealed.

Section 3. (A) Subject to Sections 4 and 5 of this act, sections 2305.06 and 2305.07 of the Revised Code, as amended by this act, apply to an action in which the cause of action accrues on or after the effective date of this act.

(B) Division (B) of section 2305.03 of the Revised Code, as amended by this act, applies retroactively to April 7, 2005, the effective date of S.B. 80 of the 125th General Assembly.

Section 4. For causes of action that are governed by section 2305.06 of the Revised Code and that accrued prior to the effective date of this act, the period of limitations shall be six years from the effective date of this act or the expiration of the period of limitations in effect prior to the effective date of this act, whichever occurs first.

Section 5. (A) For causes of action that are governed by division (A) of section 2305.07 of the Revised Code that accrued prior to the effective date of this act, the period of limitations shall be four years from the effective date of this act or the expiration of the period of limitations in effect prior to the effective date of this act, whichever occurs first.

(B) For causes of action that are governed by division (C) 164
of section 2305.07 of the Revised Code that accrued prior to the 165
effective date of this act, the period of limitations shall be 166
six years from the effective date of this act or the expiration 167
of the period of limitations in effect prior to the effective 168
date of this act, whichever occurs first. 169

Section 6. That Section 22 of H.B. 197 of the 133rd 170
General Assembly be amended to read as follows: 171

Sec. 22. (A) The following that are set to expire between 172
March 9, 2020, and July 30, 2020, shall be tolled: 173

(1) A statute of limitation, as follows: 174

(a) For any criminal offense, notwithstanding any other 175
provision of law to the contrary, the applicable period of 176
limitation set forth in section 2901.13 of the Revised Code for 177
the criminal offense; 178

(b) When a civil cause of action accrues against a person, 179
notwithstanding any other provision of law to the contrary, the 180
period of limitation for commencement of the action as provided 181
under any section in Chapter 2305. of the Revised Code, or under 182
any other provision of the Revised Code that applies to the 183
cause of action; 184

(c) For any administrative action or proceeding, the 185
period of limitation for the action or proceeding as provided 186
under the Revised Code or the Administrative Code, if 187
applicable. 188

(2) The time within which a bill of indictment or an 189
accusation must be returned or the time within which a matter 190
must be brought before a grand jury; 191

(3) The time within which an accused person must be brought to trial or, in the case of a felony, to a preliminary hearing and trial;	192 193 194
(4) Time deadlines and other schedule requirements regarding a juvenile, including detaining a juvenile;	195 196
(5) The time within which a commitment hearing must be held;	197 198
(6) The time by which a warrant must be issued;	199
(7) The time within which discovery or any aspect of discovery must be completed;	200 201
(8) The time within which a party must be served;	202
(9) The time within which an appearance regarding a dissolution of marriage must occur pursuant to section 3105.64 of the Revised Code;	203 204 205
(10) Any other criminal, civil, or administrative time limitation under the Revised Code.	206 207
(B) This section applies retroactively to the date of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020.	208 209 210
(C) Division (A) of this section expires on the date the period of emergency ends or July 30, 2020, whichever is sooner.	211 212
<u>(D) The time period from March 9, 2020, to July 30, 2020, shall not be computed as part of the periods of limitation and time limitations described in division (A) of this section.</u>	213 214 215
Section 7. That existing Section 22 of H.B. 197 of the 133rd General Assembly is hereby repealed.	216 217
Section 8. The amendments to Section 22 of H.B. 197 of the	218

133rd General Assembly are hereby declared to be an emergency 219
measure necessary for the immediate preservation of the public 220
peace, health, and safety. The reason for such necessity is to 221
ensure that the tolling of the criminal, civil, and 222
administrative statutes of limitations and other time 223
limitations runs until July 30, 2020. Therefore, those 224
provisions of this act shall go into immediate effect. 225