

# AN ACT

To amend sections 2305.03, 2305.06, 2305.07, and 2305.11 and to enact section 2305.117 of the Revised Code to shorten the period of limitations for actions upon a contract; to make changes to the borrowing statute pertaining to applicable periods of limitations; and to establish a statute of repose for a legal malpractice action.

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

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

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

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

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

(D) No action described in division (C) of section 2305.07 of the Revised Code that seeks post charge-off interest at a rate governed by or provided in the substantive laws of any other state, territory, district, or foreign jurisdiction, and in excess of the rate of interest provided by section 5703.47 of the Revised Code, may be commenced and maintained in this state if the period of limitation that applies to that action under the laws of that other state, territory, district, or foreign jurisdiction has expired or the period of limitation that applies to that action under the laws of this state has expired.

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

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

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

(C) Except as provided in sections 1303.16, 1345.10, and 2305.04 of the Revised Code, and notwithstanding divisions (A) and (B) of this section, section 1302.98, and division (B) of section 2305.03 of the Revised Code, an action arising out of a consumer transaction incurred primarily for personal, family, or household purposes, based upon any contract, agreement, obligation, liability, or promise, express or implied, including an account stated, whether or not reduced to writing or signed by the party to be charged by that transaction, shall be commenced within six years after the cause of action accrued. For purposes of this division, a cause of action accrues thirty calendar days after the date of the last charge or payment by, or on behalf of, the consumer, whichever is later.

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 section, an action upon a legal malpractice claim against an attorney or a law firm or legal professional association shall be commenced within one year after the cause of action accrued.

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

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

(2) If an action upon a legal malpractice claim against an attorney or a law firm or legal

professional association is not commenced within four years after the occurrence of the act or omission constituting the alleged basis of the claim, then, any action upon that claim is barred.

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

(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) of section 2305.07 of the Revised Code 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.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

S. B. No. 13

134th G.A.

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_