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SUMMARY

Statute of limitations of actions on a contract

- Shortens from eight to six years the period of limitations of actions on a contract in writing, and expands the exceptions to that period of limitations.
- Shortens from six to four years the period of limitations of actions on a contract not in writing.

Actions arising out of consumer transaction

- Generally requires an action arising out of a consumer transaction primarily incurred for personal, family, or household purposes, based upon an express or implied agreement, be commenced within six years after the cause of action accrues, and provides the circumstances when such cause of action accrues.
- Excludes from the applicability of the period of limitations the limitation periods under Ohio's Commercial Paper Law, of an action to recover title to or possession of real property, or violations of the Consumer Sales Practices Act.
- Provides that the limitation period of an action arising out of a consumer transaction is notwithstanding certain other periods of limitation.

Changes to the "borrowing statute"

- Narrows the law regarding the "borrowing statute" by providing that no *tort action*, instead of civil action, based upon a cause of action that accrued in another state or foreign jurisdiction, may be commenced in Ohio if the limitation period under the other jurisdiction's law or Ohio law has expired.
- Generally prevents an action on a contract in writing that seeks post-default interest at a rate governed by another state's or foreign jurisdiction's law, and in excess of the

federal short-term rate, from being commenced in Ohio if the limitation period under the other jurisdiction's law or Ohio law has expired.

- Prevents an action arising out of a consumer transaction as described above, that seeks post charge-off interest at a rate governed by another jurisdiction's law and in excess of the federal short-term rate, from being commenced in Ohio if the limitation period under the other jurisdiction's law or Ohio law has expired.

Application

- Generally provides that the limitation periods that apply in actions described above apply to actions in which the cause of action accrues on or after June 16, 2021, the act's effective date.
- Specifies the limitation periods that apply if the cause of action accrues prior to that date.

Statutes of limitation and repose for legal malpractice action

- Provides that a legal malpractice action against an attorney, law firm, or legal professional association must be commenced within one year after the cause of action accrues.
- Generally provides that a legal malpractice action against an attorney, law firm, or legal professional association cannot commence more than four years after the act or omission constituting the alleged basis of the legal malpractice claim occurs.
- Provides that if a legal malpractice action is not commenced within four years after the act or omission occurs, any action upon that claim is barred.
- Allows a person seeking a legal malpractice claim to commence an action on the claim not later than one year after the person discovers the injury resulting from an act or omission if certain requirements are met.

DETAILED ANALYSIS

Actions on a contract in writing

Under the act, an action on a specialty (a contract under seal) or an agreement, contract, or promise *in writing* generally must be brought within six years after the cause of action accrued, rather than eight years as previously provided under Ohio law.¹ It expands the exceptions to the period of limitation on a contract in writing to include:²

- Generally, the periods of limitations of actions under Ohio's Commercial Paper Law;

¹ R.C. 2305.06; *Black's Law Dictionary*, Fifth Edition (1979).

² R.C. 2305.06, and by reference to R.C. 1303.16, 1345.10, and 2305.04.

- Generally, an action to recover title to or possession of real property that must be brought within 21 years after the cause of action accrued; and
- Violations of the Consumer Sales Practices Act.

The other exceptions to the period of limitation on a contract in writing are:³

- Generally, an action against the state or a state agency for failure to make any distribution or other payment that must be brought within five years after the cause of action accrued; and
- Generally, an action for breach of any contract for sale that must be commenced within four years after the cause of action has accrued.

Application

Generally, under the act, the period of limitation of an action on a contract in writing applies to an action in which the cause of action accrues on or after June 16, 2021, which is the act's effective date.⁴ For causes of action that accrued prior to that date, the period of limitation is six years from that date or the expiration of the period of limitation in effect prior to that date, whichever occurs first.⁵

Actions on an unwritten contract

Under the act, an action on a contract *not in writing*, express or implied, generally must be brought within four years after the cause of action accrued, rather than six years as was previously required.⁶

Application

Generally, under the act, the period of limitation of an action on a contract not in writing applies to an action in which the cause of action accrues on or after June 16, 2021.⁷ For causes of action that accrued prior to that date, the period of limitation is four years from that date or the expiration of the period of limitation in effect prior to that date, whichever occurs first.⁸

Actions arising out of a consumer transaction

The act provides that an action arising out of a consumer transaction incurred primarily for personal, family, or household purposes must be brought within six years after the cause of

³ R.C. 2305.06, and by reference to R.C. 126.301 and 1302.98.

⁴ Section 3(A).

⁵ Section 4.

⁶ R.C. 2305.07(A).

⁷ Section 3(A).

⁸ Section 5(A).

action accrued, whether 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. A cause of action of this type accrues 30 calendar days after the date of the last charge or payment by, or on behalf of, the consumer, whichever is later.⁹ However, the act provides the following *exceptions* to this period of limitation:¹⁰

- Generally, the periods of limitations of actions under Ohio’s Commercial Paper Law;
- Generally, an action to recover title to or possession of real property that must be brought within 21 years after the cause of action accrued; and
- Violations of the Consumer Sales Practices Act.

The act further provides that the period of limitation is *notwithstanding* the following limitation periods:¹¹

- The four-year limitation period of an action on a contract not in writing or the six-year limitation period of an action upon a liability created by statute other than a forfeiture or penalty;
- The four-year limitation period of an action for breach of a contract of sale; and
- The period of limitation of a tort action under “**Changes to the ‘borrowing statute,’**” below.

Application

Generally, under the act, the period of limitation of an action on a contract arising out of a consumer transaction as described above applies to an action in which the cause of action accrues on or after June 16, 2021.¹² For causes of action that accrued prior to that date, the period of limitation is six years from that date or the expiration of the period of limitation in effect prior to that date, whichever occurs first.¹³

Changes to the “borrowing statute”

Ohio’s so-called borrowing statute previously prohibited a civil action that is based upon a cause of action that accrued in any other state, territory, district, or foreign jurisdiction (other jurisdiction) from being commenced and maintained in Ohio if the period of limitation that applies to that action under the other jurisdiction’s laws, or under Ohio law, had expired.¹⁴ The act limits the borrowing statute to a “*tort action*,” which it defines as a civil action for damages

⁹ R.C. 2305.07(C).

¹⁰ R.C. 2305.07(C), and by reference to R.C. 1303.16, 1345.10, and 2305.04.

¹¹ R.C. 2305.07(C), and by reference to R.C. 1302.98, 2305.03(B), and 2305.07(A) and (B).

¹² Section 3(A).

¹³ Section 5(B).

¹⁴ R.C. 2305.03(B).

for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.¹⁵ The act provides that the preceding provision applies retroactively to April 7, 2005, the effective date of S.B. 80 (Tort Reform Act) of the 125th General Assembly.¹⁶

Contract-related actions

The act provides that no action upon a specialty or an agreement, contract, or promise in writing, other than one arising out of a consumer transaction described above, that seeks post-default interest at a rate governed by the substantive laws of any other jurisdiction, and exceeding the federal short-term rate as determined by the Tax Commissioner, may be commenced and maintained in Ohio if the period of limitation that applies to that action under the other jurisdiction's laws, or under Ohio law, has expired.¹⁷

Consumer transaction-related actions

Under the act, no action arising out of a consumer transaction described above that seeks post charge-off interest at a rate governed by or provided in the substantive laws of any other jurisdiction, and exceeding the federal short-term rate as determined by the Tax Commissioner, may be commenced and maintained in Ohio if the period of limitation that applies to that action under the other jurisdiction's laws, or under Ohio law, has expired.¹⁸

Statute of limitation for legal malpractice action

The act provides that a legal malpractice action against an attorney, law firm, or legal professional association must be commenced within one year after the cause of action accrues.¹⁹

Statute of repose for legal malpractice action

The act generally specifies that an action upon a legal malpractice claim against an attorney, law firm, or legal professional association must commence within one year after the cause of action accrued.²⁰

Except as to persons within the age of minority or of unsound mind, generally both of the following apply:²¹

¹⁵ R.C. 2305.03(B), and by reference to R.C. 2305.236.

¹⁶ Section 3(B).

¹⁷ R.C. 2305.03(C), and by reference to R.C. 5703.47.

¹⁸ R.C. 2305.03(D), and by reference to R.C. 5703.47.

¹⁹ R.C. 2305.11(A).

²⁰ R.C. 2305.117(A).

²¹ R.C. 2305.117(B).

- No action upon a legal malpractice claim against an attorney, law firm, or legal professional association may commence more than four years after the act or omission constituting the alleged basis of the claim occurred.
- If an action upon a legal malpractice claim against an attorney, law firm, or legal professional association is not commenced within that four years, any action upon the claim is barred.

Under the act, if a person making a legal malpractice claim against an attorney, 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 act or omission occurred, but, in the exercise of reasonable care and diligence, discovers the injury before the four-year period expires, the person may commence an action not later than one year after the person discovers the injury.²²

A person who commences an action under the circumstances described in the previous paragraph 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 within that three-year period.²³

HISTORY

Action	Date
Introduced	01-21-21
Reported, S. Judiciary	02-03-21
Passed Senate (32-0)	02-03-21
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Passed House (95-0)	02-25-21

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²² R.C. 2305.117(C)(1).

²³ R.C. 2305.117(C)(2).