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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Synopsis of Senate Committee Amendments

(This synopsis does not address amendments that may have been adopted on the Senate Floor.)

### H.B. 352 of the 133<sup>rd</sup> General Assembly

#### Senate Judiciary

Paul Luzzi, Attorney

Adds all of the following to the House-passed version:

#### 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 existing law's exceptions to that period of limitations.
- Shortens from six to four years the period of limitations of actions on a contract not in writing.
- 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 described in the preceding dot point 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 as described in the 2<sup>nd</sup> preceding dot point is notwithstanding certain other periods of limitation.

#### Changes to the "borrowing statute"

- Narrows current law by providing that no *tort action*, instead of civil action under current law, based upon a cause of action that accrued in another state or foreign jurisdiction may be commenced in Ohio if the limitation period under that other state's or jurisdiction's law or under 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 of such action under that other state's or jurisdiction's law or under 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 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 of such action under that other state's or jurisdiction's law or under Ohio law has expired.

## **Application**

- Generally provides that the limitation periods that apply in actions described above under "**Statute of limitations of actions on a contract**," apply to actions in which the cause of action accrues on or after the bill's effective date.
- Specifies the limitation periods that apply in any of the actions under the preceding dot point if the cause of action accrues prior to the bill's effective date.

## **Statutes of limitation and repose for legal malpractice action**

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

## **Tolling of statutes of limitations and other time limitations**

- Specifies that the time period between March 9, 2020, and July 30, 2020, cannot be computed as part of the periods of limitation and time limitations that are tolled under Am. Sub. H.B. 197 of the 133<sup>rd</sup> General Assembly as a result of the emergency declared by Executive Order 2020-01D, issued on March 9, 2020.
- Specifies that the tolling expires on July 30, 2020, rather than when the period of emergency ends or July 30, 2020, whichever is sooner.

## **Emergency clause**

- Declares an emergency and specifies that both of the following take immediate effect:

- The prohibition against computing the time period from March 9, 2020, to July 30, 2020, as part of the periods of limitation and time limitations that are tolled under Am. Sub. H.B. 197 of the 133<sup>rd</sup> General Assembly.
- The change of the tolling expiration to July 30, 2020, from the earlier of when the period of emergency ends or July 30, 2020.