

1 HB363
2 128025-1
3 By Representatives McMillan, Buskey, Kennedy, Ison, Gaston and
4 Davis
5 RFD: Insurance
6 First Read: 29-MAR-11

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8 SYNOPSIS: Under existing law, Alabama has a six-year
9 statute of limitations for actions based on written
10 contract.

11 This bill would limit the statute of
12 limitations for the recovery of property loss to
13 two years.

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15 A BILL
16 TO BE ENTITLED
17 AN ACT

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19 To amend Section 6-2-38 of the Code of Alabama 1975,
20 to allow an action to recover damages for property loss be
21 commenced within two years from the date of the loss.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 6-2-38 of the Code of Alabama
24 1975, is amended to read as follows:

25 "§6-2-38.

26 "(a) An action by a representative to recover
27 damages for wrongful act, omission, or negligence causing the

1 death of the decedent under Sections 6-5-391 and 6-5-410 must
2 be commenced within two years from the death.

3 "(b) All actions by common carriers of property
4 subject to Chapter 3 of Title 37 for recovery of their
5 charges, or any part thereof, shall be begun within two years
6 from the time the cause of action accrues and not after.

7 "(c) For recovery of charges, action shall be begun
8 against common carriers of property by motor vehicles subject
9 to this article within two years from the time the cause of
10 action accrues and not after, except as provided in subsection
11 (d) of this section; provided, that if claim for the
12 overcharge has been presented in writing to the carrier within
13 the two year period of limitation, said period shall be
14 extended to include six months from the time notice in writing
15 is given by the carrier to the claimant of disallowance of the
16 claim, or any part or parts thereof, specified in the notice.

17 "(d) If on or before the expiration of the two-year
18 period of limitation in subsection (c) of this section, a
19 common carrier by motor vehicle subject to Chapter 3 of Title
20 37 begins action under subsection (c) of this section for
21 recovery of charges in respect of the same transportation
22 service or, without beginning action, collects charges in
23 respect of that service, said period of limitation shall be
24 extended to include 90 days from the time such action is begun
25 or such charges are collected by the carrier.

26 "(e) The cause of action in respect of a shipment of
27 property shall, for the purpose of subsections (b) through (f)

1 of this section, be deemed to accrue upon delivery or tender
2 of delivery thereof by the carrier and not after.

3 "(f) The term "overcharges" as used in subsections
4 (b) through (e) of this section shall mean charges for
5 transportation services in excess of those applicable thereto
6 under the tariffs lawfully on file with the public service
7 commission.

8 "(g) Any action brought under Section 25-5-11(b)
9 must be brought within two years of such injury or death.

10 "(h) All actions for malicious prosecution must be
11 brought within two years.

12 "(i) All actions for seduction must be brought
13 within two years.

14 "(j) All actions qui tam or for a penalty given by
15 statute to the party aggrieved, unless the statute imposing it
16 prescribes a different limitation, must be brought within two
17 years.

18 "(k) All actions of libel or slander must be brought
19 within two years.

20 "(l) All actions for any injury to the person or
21 rights of another not arising from contract and not
22 specifically enumerated in this section must be brought within
23 two years.

24 "(m) All actions for the recovery of wages,
25 overtime, damages, fees, or penalties accruing under laws
26 respecting the payment of wages, overtime, damages, fees, and
27 penalties must be brought within two years.

1 "(n) All actions commenced to recover damages for
2 injury to the person or property of another wherein a
3 principal or master is sought to be held liable for the act or
4 conduct of his agent, servant, or employee under the doctrine
5 of respondeat superior must be brought within two years.

6 "(o) All actions commenced under Section 6-5-411 to
7 recover damages for injury or damage to property of a decedent
8 must be brought within two years.

9 "(p) If any action is commenced before the time
10 limited has expired, judgment is entered for the plaintiff and
11 such judgment is arrested or reversed on appeal, the plaintiff
12 or his legal representative may commence an action again
13 within one year from the reversal or arrest of such judgment
14 though the period limited may in the meantime have expired;
15 and in like manner, if more than one judgment is arrested or
16 reversed, an action may be recommenced within one year.

17 "(q) An action to recover damages for property loss
18 must be commenced within two years from the date of the loss."

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.