

**As Reported by the Senate Judiciary--Civil Justice Committee**

**125th General Assembly**

**Regular Session**

**2003-2004**

**Sub. H. B. No. 161**

**Representatives Seitz, Willamowski, Widowfield, Grendell, Oelslager,  
Harwood, DePiero, Driehaus, Allen, Barrett, Beatty, Boccieri, Book, Buehrer,  
Cates, Cirelli, Clancy, Daniels, DeBose, Distel, Domenick, C. Evans, Faber,  
Gilb, Hartnett, Hughes, Jerse, Key, Mason, Niehaus, T. Patton, Price, Raga,  
Raussen, Schmidt, Schneider, Sferra, Skindell, G. Smith, D. Stewart,  
J. Stewart, Strahorn, Yates**

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**A B I L L**

To amend sections 2305.09 and 2305.19 of the Revised 1  
Code to modify the period within which a plaintiff 2  
may commence a new action after the reversal of a 3  
judgment for the plaintiff or the plaintiff's 4  
failure otherwise than upon the merits, to include 5  
within the four-year statute of limitations for 6  
certain actions an action for relief on the 7  
grounds of a physical or regulatory taking of real 8  
property, and to declare an emergency. 9

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

**Section 1.** That sections 2305.09 and 2305.19 of the Revised 10  
Code be amended to read as follows: 11

**Sec. 2305.09.** An action for any of the following causes shall 12  
be brought within four years after the cause thereof accrued: 13

(A) For trespassing upon real property; 14  
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(B) For the recovery of personal property, or for taking or  
detaining it; 16  
17

(C) For relief on the ground of fraud; 18

(D) For an injury to the rights of the plaintiff not arising 19  
on contract nor enumerated in sections 1304.35, 2305.10 to 20  
2305.12, and 2305.14 ~~and 1304.35~~ of the Revised Code; 21

(E) For relief on the grounds of a physical or regulatory 22  
taking of real property. 23

If the action is for trespassing under ground or injury to 24  
mines, or for the wrongful taking of personal property, the causes 25  
thereof shall not accrue until the wrongdoer is discovered; nor, 26  
if it is for fraud, until the fraud is discovered. 27

**Sec. 2305.19.** (A) In an any action that is commenced, or 28  
attempted to be commenced, if in due time a judgment for the 29  
plaintiff is reversed, or if the plaintiff fails otherwise than 30  
upon the merits, ~~and the time limited for the commencement of such~~ 31  
~~action at the date of reversal or failure has expired,~~ the 32  
plaintiff, or, if ~~he~~ the plaintiff dies and the cause of action 33  
survives, ~~his representatives~~ the plaintiff's representative may 34  
commence a new action within one year after ~~such~~ the date of the 35  
reversal of the judgment or the plaintiff's failure otherwise than 36  
upon the merits or within the period of the original applicable 37  
statute of limitations, whichever occurs later. This ~~provision~~ 38  
division applies to any claim asserted in any pleading by a 39  
defendant. ~~If~~ 40

(B) If the defendant in an action described in division (A) 41  
of this section is a foreign or domestic corporation, ~~foreign or~~ 42  
~~domestic,~~ and whether its charter prescribes the manner ~~and or~~ 43  
~~place, or either,~~ of service of process thereon on the defendant, 44  
and if it passes into the hands of a receiver before the 45

expiration of ~~such~~ the one year period or the period of the 46  
original applicable statute of limitations, whichever is 47  
applicable, as described in that division, then service to be made 48  
within ~~the~~ one year following ~~such~~ the original service or attempt 49  
to begin the action may be made upon ~~such~~ that receiver or ~~his~~ the 50  
receiver's cashier, treasurer, secretary, clerk, or managing 51  
agent, or if none of these officers can be found, by a copy left 52  
at the office or the usual place of business of ~~such~~ any of those 53  
agents or officers of the receiver with the person having charge 54  
thereof of the office or place of business. If ~~such~~ that 55  
corporation is a railroad company, summons may be served on any 56  
regular ticket or freight agent of the receiver, and if there is 57  
no ~~such~~ regular ticket or freight agent of the receiver, then upon 58  
any conductor of the receiver, in any county in the state in which 59  
the railroad is located. The summons shall be returned as if 60  
served on ~~such~~ that defendant corporation. 61

**Section 2.** That existing sections 2305.09 and 2305.19 of the 62  
Revised Code are hereby repealed. 63

**Section 3.** That Section 3 of Am. Sub. H.B. 51 of the 125th 64  
General Assembly be amended to read as follows: 65

**Sec. 3.** (A) Sections 2106.01, 2106.02, ~~2107.19, 2109.301, and~~ 66  
~~2109.32, 2113.53, 2117.06, 2117.07, 2117.11, and 2117.12~~ of the 67  
Revised Code, as amended by ~~this act~~ Am. Sub. H.B. 51 of the 125th 68  
General Assembly, apply to estates that are in existence or are 69  
initiated on or after ~~the effective date of this act~~ April 8, 70  
2004. 71

(B) Section 2101.163 of the Revised Code, as enacted by ~~this~~ 72  
~~act~~ Am. Sub. H.B. 51 of the 125th General Assembly, applies to 73  
civil actions and proceedings that are pending in or brought 74  
before the probate court on or after ~~the effective date of this~~ 75

act <u>April 8, 2004.</u>	76
<u>(C) Sections 2107.19, 2109.301, 2113.53, 2117.06, 2117.07,</u>	77
<u>2117.11, and 2117.12 of the Revised Code, as amended by this act,</u>	78
<u>apply to estates of decedents who die on or after April 8, 2004.</u>	79
<b>Section 4.</b> That existing Section 3 of Am. Sub. H.B. 51 of the	80
125th General Assembly is hereby repealed.	81
<b>Section 5.</b> Sections 3 and 4 of this act shall take effect on	82
April 8, 2004.	83
<b>Section 6.</b> Sections 2305.09 and 2305.19 of the Revised Code	84
shall take effect ninety days after the effective date of this	85
act.	86
<b>Section 7.</b> This act is hereby declared to be an emergency	87
measure necessary for the immediate preservation of the public	88
peace, health, and safety. The reason for such necessity is to	89
prevent confusion and potential constitutional problems with the	90
application of certain provisions of Am. Sub. H.B. 51 of the 125th	91
General Assembly to pending decedent's estates. Therefore, this	92
act shall go into immediate effect.	93