

HOUSE BILL NO. 191

INTRODUCED BY MEASURE, MAZUREK, WANZENRIED, SQUIRES,  
TOOLE, WHALEN, J. RICE, MERCER

IN THE HOUSE

JANUARY 15, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON JUDICIARY.

JANUARY 16, 1991           FIRST READING.

JANUARY 17, 1991           ON MOTION, ADDITIONAL SPONSORS ADDED.

JANUARY 24, 1991           COMMITTEE RECOMMEND BILL  
                                  DO PASS. REPORT ADOPTED.

JANUARY 25, 1991           PRINTING REPORT.

JANUARY 26, 1991           SECOND READING, DO PASS.

JANUARY 28, 1991           ENGROSSING REPORT.

JANUARY 30, 1991           THIRD READING, PASSED.  
                                  AYES, 97; NOES, 3.

                                  TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 31, 1991           INTRODUCED AND REFERRED TO COMMITTEE  
                                  ON JUDICIARY.

                                  FIRST READING.

MARCH 18, 1991           COMMITTEE RECOMMEND BILL BE  
                                  CONCURRED IN. REPORT ADOPTED.

MARCH 20, 1991           SECOND READING, CONCURRED IN.

MARCH 21, 1991           THIRD READING, CONCURRED IN.  
                                  AYES, 49; NOES, 0.

                                  RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1991           RECEIVED FROM SENATE.

                                  SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 191  
2 INTRODUCED BY [Signature]

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM  
5 CONFLICT OF LAWS -- LIMITATIONS ACT; PROVIDING FOR A METHOD  
6 OF DETERMINING THE APPLICABLE STATUTE OF LIMITATIONS WHEN  
7 OTHER STATE LAWS ARE INVOLVED IN A CIVIL PROCEEDING IN  
8 MONTANA; AND AMENDING SECTION 27-2-104, MCA."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11 NEW SECTION. Section 1. Short title. [Sections 1  
12 through 7] may be cited as the "Uniform Conflict of Laws --  
13 Limitations Act".

14 NEW SECTION. Section 2. Definitions. As used in  
15 [sections 1 through 7], unless the context requires  
16 otherwise, the following definitions apply:

17 (1) "Claim" means a right of action that may be  
18 asserted in a civil action or proceeding and includes a  
19 right of action created by statute.

20 (2) "State" means a state, commonwealth, territory, or  
21 possession of the United States, the District of Columbia,  
22 the Commonwealth of Puerto Rico, a foreign country, or a  
23 political subdivision of any of them.

24 NEW SECTION. Section 3. Conflict of laws -- limitation  
25 periods. (1) Except as provided by [section 5], if a claim

1 is substantively based:

2 (a) upon the law of one other state, the limitation  
3 period of that state applies; or

4 (b) upon the law of more than one state, the limitation  
5 period of one of those states chosen by [sections 1 through  
6 7] applies.

7 (2) The limitation period of Montana applies to all  
8 other claims.

9 NEW SECTION. Section 4. Rules applicable to  
10 computation of limitation period. If the statute of  
11 limitations of another state applies to the assertion of a  
12 claim in Montana, the other state's relevant statutes and  
13 other rules of law governing tolling and accrual apply in  
14 computing the limitation period but its statutes and other  
15 rules of law governing conflict of laws do not apply.

16 NEW SECTION. Section 5. Unfairness. If a court  
17 determines that the limitation period of another state  
18 applicable under [sections 3 and 4] is substantially  
19 different from the limitation period of Montana and has not  
20 afforded a fair opportunity to sue upon, or imposes an  
21 unfair burden in defending against, the claim, the  
22 limitation period of Montana applies.

23 NEW SECTION. Section 6. Existing and future claims.  
24 [Sections 1 through 7] apply to claims:  
25 (1) accruing after October 1, 1991; or

1 (2) asserted in a civil action or proceeding more than  
2 1 year after October 1, 1991, but do not revive a claim  
3 barred before October 1, 1991.

4 NEW SECTION. Section 7. Uniformity of application and  
5 construction. [Sections 1 through 7] must be applied and  
6 construed to effectuate the general purpose of making  
7 uniform the law with respect to the subject of [sections 1  
8 through 7] among states enacting it.

9 **Section 8.** Section 27-2-104, MCA, is amended to read:

10 "27-2-104. Application of this state's statutes of  
11 limitations -- actions against nonresidents. Where When a  
12 cause of action which that does not involve the title to or  
13 possession of real property within the state accrues against  
14 a person who is not then a resident of the state, an action  
15 ~~cannot--be--brought--thereon--in--a--court--of--the--state--against~~  
16 ~~him--or--his--personal--representative--after--the--expiration--of~~  
17 ~~the--time--limited--by--the--laws--of--his--residence--for--bringing--a~~  
18 ~~like--action--except--by--a--resident--of--the--state--and--in--one--of~~  
19 ~~the--following--cases:~~

20 (1) ~~--where--the--cause--of--action--originally--accrued--in~~  
21 ~~favor--of--a--resident--of--the--state;~~

22 (2) ~~--where,--before--the--expiration--of--the--time--so~~  
23 ~~limited,--the--person--in--whose--favor--it--originally--accrued--was~~  
24 ~~or--became--a--resident--of--the--state--or--the--cause--of--action--was~~  
25 ~~assigned--to--and--thereafter--continuously--owned--by--a--resident~~

1 ~~of--the--state~~ is governed by [sections 1 through 7]."

2 NEW SECTION. Section 9. Severability. If a part of  
3 [this act] is invalid, all valid parts that are severable  
4 from the invalid part remain in effect. If a part of [this  
5 act] is invalid in one or more of its applications, the part  
6 remains in effect in all valid applications that are  
7 severable from the invalid applications.

8 NEW SECTION. Section 10. Codification instruction.  
9 [Sections 1 through 7] are intended to be codified as an  
10 integral part of Title 27, chapter 2, and the provisions of  
11 Title 27, chapter 2, apply to [sections 1 through 7].

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 191

INTRODUCED BY MEASURE, MAZUREK, WANZENRIED, SQUIRES,

TOOLE, WHALEN, J. RICE, MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM  
CONFLICT OF LAWS -- LIMITATIONS ACT; PROVIDING FOR A METHOD  
OF DETERMINING THE APPLICABLE STATUTE OF LIMITATIONS WHEN  
OTHER STATE LAWS ARE INVOLVED IN A CIVIL PROCEEDING IN  
MONTANA; AND AMENDING SECTION 27-2-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Short title. [Sections 1  
through 7] may be cited as the "Uniform Conflict of Laws --  
Limitations Act".

NEW SECTION. **Section 2.** Definitions. As used in  
[sections 1 through 7], unless the context requires  
otherwise, the following definitions apply:

(1) "Claim" means a right of action that may be  
asserted in a civil action or proceeding and includes a  
right of action created by statute.

(2) "State" means a state, commonwealth, territory, or  
possession of the United States, the District of Columbia,  
the Commonwealth of Puerto Rico, a foreign country, or a  
political subdivision of any of them.

NEW SECTION. **Section 3.** Conflict of laws -- limitation

periods. (1) Except as provided by [section 5], if a claim  
is substantively based:

(a) upon the law of one other state, the limitation  
period of that state applies; or

(b) upon the law of more than one state, the limitation  
period of one of those states chosen by [sections 1 through  
7] applies.

(2) The limitation period of Montana applies to all  
other claims.

NEW SECTION. **Section 4.** Rules applicable to  
computation of limitation period. If the statute of  
limitations of another state applies to the assertion of a  
claim in Montana, the other state's relevant statutes and  
other rules of law governing tolling and accrual apply in  
computing the limitation period but its statutes and other  
rules of law governing conflict of laws do not apply.

NEW SECTION. **Section 5.** Unfairness. If a court  
determines that the limitation period of another state  
applicable under [sections 3 and 4] is substantially  
different from the limitation period of Montana and has not  
afforded a fair opportunity to sue upon, or imposes an  
unfair burden in defending against, the claim, the  
limitation period of Montana applies.

NEW SECTION. **Section 6.** Existing and future claims.  
[Sections 1 through 7] apply to claims:

**SECOND READING**

- 1 (1) accruing after October 1, 1991; or
- 2 (2) asserted in a civil action or proceeding more than
- 3 1 year after October 1, 1991, but do not revive a claim
- 4 barred before October 1, 1991.

5 NEW SECTION. Section 7. Uniformity of application and  
 6 construction. [Sections 1 through 7] must be applied and  
 7 construed to effectuate the general purpose of making  
 8 uniform the law with respect to the subject of [sections 1  
 9 through 7] among states enacting it.

10 **Section 8.** Section 27-2-104, MCA, is amended to read:

11 "27-2-104. Application of this state's statutes of  
 12 limitations -- actions against nonresidents. ~~Where~~ When a  
 13 cause of action ~~which that~~ does not involve the title to or  
 14 possession of real property within the state accrues against  
 15 a person who is not then a resident of the state, an action  
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 2 ~~of-the-state is governed by [sections 1 through 7]."~~

3 NEW SECTION. Section 9. Severability. If a part of  
 4 [this act] is invalid, all valid parts that are severable  
 5 from the invalid part remain in effect. If a part of [this  
 6 act] is invalid in one or more of its applications, the part  
 7 remains in effect in all valid applications that are  
 8 severable from the invalid applications.

9 NEW SECTION. Section 10. Codification instruction.  
 10 [Sections 1 through 7] are intended to be codified as an  
 11 integral part of Title 27, chapter 2, and the provisions of  
 12 Title 27, chapter 2, apply to [sections 1 through 7].

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(1) "Claim" means a right of action that may be asserted in a civil action or proceeding and includes a right of action created by statute.

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THIRD READING



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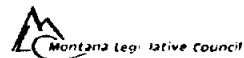
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REFERENCE BILL



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