

INTERIM JUDICIARY COMMITTEE

Tuesday, July 26, 2011 – 9:00 a.m.

HOUSE BILL NO. 1365 (enacted)
Study of Statutes of Limitation and Venue Requirements

Testimony of:

Larry L. Boschee,
appearing on behalf of the
North Dakota Defense
Lawyers Association.

Chairman Nething and Members of the Committee:

My name is Larry Boschee and I am appearing for the North Dakota Defense Lawyers Association in support of shortening the limitation period from six years to three for the claims set forth in section 28-01-16 of the North Dakota Century Code. The North Dakota Defense Lawyers Association is a statewide association whose member lawyers are primarily engaged in defending civil lawsuits.

1. A three-year limitation period will prevent stale claims.

A shorter limitation period will prevent stale claims. Over time, evidence disappears, witnesses die, or their memories fade. This loss of evidence impairs a defendant's ability to defend and the truth-finding function of the court.

The overall effect of shortening the limitation period will be to cause plaintiffs to file their claims earlier. That will help level the litigation playing field by allowing both sides access to fresher evidence.

As much or more than plaintiffs, defendants need access to fresh evidence. In litigation, the best defense is a good offense. Defendants need fresh evidence to refute the plaintiff's version about the underlying matter. Defendants also need fresh evidence to prove affirmative defenses – defenses for which they have the burden of proof.

A shorter limitation period will result in earlier settlements. Claims languish without an impetus for settling them. Claims settle when the parties must do something, like start the lawsuit or try the case.

2. A three-year limitation period will bring North Dakota into the mainstream.

A three-year limitation period will bring North Dakota into the mainstream. The listing in the addendum shows the general-torts personal-injury limitation periods for all 49 other states. Most states – 39 in all – have three or two-year limitation periods.

The number of states with six-year general-torts personal-injury limitation periods has been shrinking. In 1992, a case reported that seven states had six-year limitation periods. Am. Gen. Fire & Cas. v. Walmart Stores, Inc., 791 F.Supp. 763, 765 (W.D. Ark. 1992). With its six-year limitation period, North Dakota is now tied with only Minnesota and Maine for having the longest general-torts personal-injury limitation period in the nation.

Neighboring states South Dakota and Montana have three-year general-torts personal-injury limitation periods. North Dakota should join those states and the fourteen other states that also have three-year limitation periods.

North Dakota's six-year limitation period traces back to the days of Dakota Territory. Rev. Codes of the Terr. of Dak., Code of Civ. Proc. § 54 (1887). Times have changed since territorial days. With modern-day modes of research, communication, and transportation, finding and serving defendants is easier now than in the 1800s. By at least 1939, North Dakota's territorial partner, South Dakota, had already enacted its three-year general torts personal-injury limitation period. S.D. Code of 1939 § 33.0232.

A lengthy limitation period is no longer needed to allow time for people to become aware of their claims. Twenty years ago the North Dakota Supreme Court adopted a discovery rule for tort claims. Hebron Pub. Sch. Dist. No. 13 v. United States Gypsum Co., 475 N.W.2d 120, 126 (N.D. 1991). Twelve years ago it adopted a discovery rule for breach-of-contract claims. Wells v. First Am. Bank W., 1999 ND 170, ¶ 11, 598 N.W.2d 834. Under the discovery rule, the limitation period does not start until "the plaintiff knew or with the exercise of reasonable diligence should have known, of the wrongful act and its resulting injury." Dunford v. Tryhus, 2009 ND 212, ¶ 9, 776 N.W.2d 539 (quoting Wells v. First Am. Bank W., 1999 ND 170, ¶ 10, 598 N.W.2d 834).

The statute setting forth the six-year limitation period has a built-in discovery rule for fraud claims. Under the statute, a fraud claim does not accrue "until the discovery by the aggrieved party of the facts constituting the fraud." N.D. Cent. Code § 28-01-16.

With a three-year limitation period, North Dakota's general-torts limitation period would still be as long or longer than the limitation periods for those types of claims in forty-two states. Sixteen states have general-torts limitation periods of three years.

Twenty-three states have general-torts limitation periods of two years. Three states have one-year limitation periods.

North Dakota already has a two-year limitation period for malpractice claims, claims brought against doctors, lawyers, and other professionals for their negligence. N.D. Cent. Code § 28-01-18(4) (2006). It also has a two-year limitation period for personal-injury claims brought against a person or entity who provided alcoholic beverages to a person who was obviously drunk, or under the age of twenty-one, and who injured another while being drunk. Id. § 28-01-18(4). Finally, it has a two-year limitation period for wrongful death claims, claims brought by a decedent's survivors for the death's impact upon them. Id. § 28-01-18(3). A three-year limitation period for general-torts claims would be more in line with those limitation periods.

The Minnesota legislature has had bills introduced in both the Senate and the House in its 2011-2012 session that would reduce the limitation period from six to four years for the claims set forth in Minnesota's analog to section 28-01-16 of the North Dakota Century Code. H.F. 211, 2011-2012 Leg., 87th Sess. (Minn. 2011-2012); S.F. 373, 2011-2012 Leg., 87th Sess. (Minn. 2011-2012). The Senate passed its Bill. The House Bill reached the floor on the last day of part I of the Minnesota session. There, opponents filibustered the Bill, which included other measures, for three hours before the House had to move on to other bills. The House referred the Bill to the House Ways and Means Committee. When the Minnesota Legislature reconvenes in January 2012 for part II of its session, these bills will still be alive.

Maine generally does not apply a discovery rule. McLaughlin v. Superintending Comm. of Lincolnville, 832 A.2d 782, 788 (Me. 2003). The only claim having both a six-year limitation period and a discovery rule under Maine law is an asbestos product-liability claim. Id. At one time, Maine applied the discovery rule to legal malpractice claims, but the Maine legislature has passed a statute that abolishes the discovery rule for legal malpractice claims. Me. Rev. Stat. Ann. tit. 14, § 753-B. A six-year limitation period makes more sense when no discovery rule applies.

3. A three-year limitation period will help prevent forum shopping.

A three-year limitation period will help prevent forum shopping. The six-year limitation period has already attracted foreign controversies to this state. Presently 29 Alabama plaintiffs are suing asbestos-related product-liability claims in Grand Forks County. Plaintiffs from Illinois, Louisiana, Tennessee, Texas, and even the Canadian province of New Brunswick, are also suing there. North Dakota taxpayers should not have to fund the resolution of out-of-state disputes.

The Uniform Conflicts of Law-Limitations Act, and the North Dakota Supreme Court's decision in Vicknair v. Phelps Dodge, Industries, Inc., 2011 ND 39, 794 N.W.2d 746, does not end the matter of imported controversies. Out-of-state plaintiffs may still sue here and argue that North Dakota's longer statute of limitations should apply because of some tenuous connection that their claim may have to the state. They also may sue here and argue that even if the other state's shorter limitation period would otherwise apply to bar their claims, the Act's escape clause applies to allow their claims. They may

argue that the limitation period of the other state, because it is shorter, is substantially different from North Dakota's, and that they lacked a fair opportunity to sue under the other state's limitation period. Even if the North Dakota court system ultimately dismisses cases under the Act that do not belong here, those cases deplete judicial resources until they are dismissed.

The North Dakota Defense Lawyers Association does not oppose a venue statute that would address the issue of out-of-state plaintiffs suing in North Dakota when their causes of action have no relation to the state. A venue statute of this type, however, would not address two fundamental matters that a shorter statute of limitations would address: (1) preventing stale claims and (2) bringing North Dakota into the mainstream.

Additionally, it may be difficult to draft a venue statute of this type that would satisfy the Privileges and Immunities clause of the United States Constitution. U.S. Const. Art. IV, Sec. 2. Under the Privileges and Immunities clause, "there is a strong constitutional disfavoring of the categorical exclusion of non-resident plaintiffs from a state's courts under venue statutes when a state resident would be permitted to bring a similar suit." Morris v. Crown Equip. Corp., 633 S.E. 2d 292, 299 (W. Va. 2006). The best way to eliminate foreign controversies without raising constitutional concerns is to have a limitation period that is similar to what most other states have.

To prevent stale claims, to bring North Dakota into the mainstream, and to help prevent forum shopping, the North Dakota Defense Lawyers Association urges that the

Legislative Assembly shorten the limitation period from six years to three for the claims set forth in section 28-01-16 of the North Dakota Century Code.

Addendum

Table of Contents

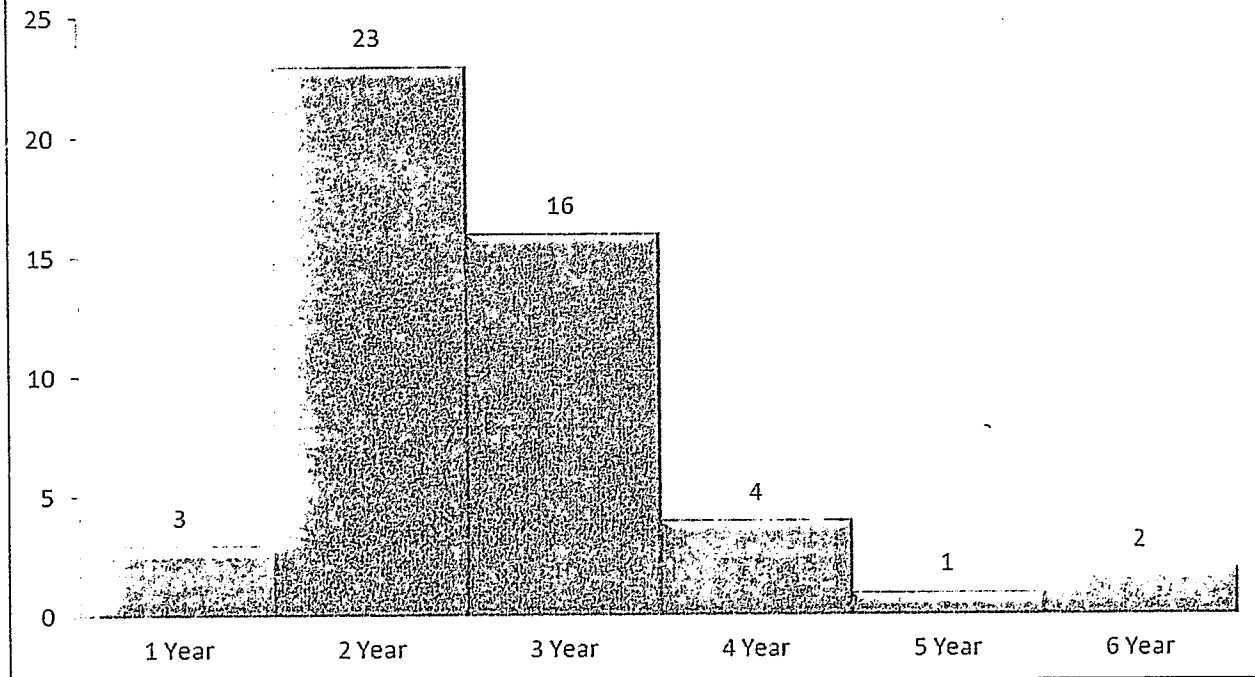
	<u>Page</u>
Listing of general-torts personal-injury limitation periods of the 49 other states	ii
Bar graph of general-torts limitation periods of the 49 other states.....	iv
N.D. Cent. Code § 28-01-18; Actions having two-year limitations	v
Plaintiffs in Grand Forks County asbestos litigation	vi
S.F. 373, 2011-2012 Leg., 87th Sess. (Minn. 2011-2012)	viii
Jurisdictions having a general breach-of-contract limitation period of four years or less	x
Draft proposed bill	xiii

General-Torts Limitation Periods Forty-Nine Other States

State	Statute
<i>One-year limitation period</i>	
1. Kentucky	Ky. Code § 413.140
2. Louisiana	La. Civ. Code art. 3492
3. Tennessee	Tenn. Code § 28-3-104
<i>Two-year limitation period</i>	
1. Alabama	Ala. Code §§ 6-2-30, 6-2-38
2. Alaska	Alaska Stat. § 09.10.070
3. Arizona	Ariz. Stat. § 12-542
4. California	Cal. Code Civ. Proc. § 335.1
5. Colorado	Col. Rev. Stat. § 13-80-102
6. Connecticut	Conn. Gen. Stat. § 52-584
7. Delaware	Del. Code tit. 10, § 8119
8. Georgia	Ga. Code Ann. § 9-3-33
9. Hawaii	Haw. Rev. Stat. § 657-7
10. Idaho	Idaho Code § 5-219(4)
11. Illinois	735 Ill. Comp. Stat. 5/13-202
12. Indiana	Ind. Code § 34-11-2-4
13. Iowa	Iowa Code § 614.1(2)
14. Kansas	Kan. Stat. § 60-513
15. Nevada	Nev. Rev. Stat. § 11.190(4)(e)
16. New Jersey	N.J. Stat. Ann. § 2A:14-2
17. Ohio	Ohio Rev. Code § 2305.10
18. Oklahoma	Okla. Stat. Ann. tit. 12, §95(3)
19. Oregon	Or. Rev. Stat. § 12.110
20. Pennsylvania	42 Pa. Con. Stat. § 5524
21. Texas	Tex. Civ. Prac. & Rem. Code § 16.003
22. Virginia	Va. Code Ann. § 8.01-243
23. West Virginia	W. Va. Code § 55-2-12
<i>Three-year limitation period</i>	
1. Arkansas	Ark. Code Ann. § 16-56-105
2. Maryland	Md. Cts. & Jud. Code Ann. § 5-101
3. Massachusetts	Mass. Gen. Laws, Art. 260, § 2A
4. Michigan	Mich. Comp Laws § 600.5805(10)
5. Mississippi	Miss. Code Ann. § 15-1-49

State	Statute
6. Montana	Mont. Code Ann. § 27-2-204
7. New Hampshire	N.H. Rev. Stat. § 508:4
8. New Mexico	N.M. Stat. Ann. § 37-1-8
9. New York	N.Y. Civ. Prac. R. § 214(5)
10. North Carolina	N.C. Gen. Stat. § 1-52(16)
11. Rhode Island	R.I. Gen. Laws § 9-1-14(b)
12. South Carolina	S.C. Code Ann. § 15-3-530(5)
13. South Dakota	S.D. Comp. Laws Ann. § 15-2-14(3)
14. Vermont	Vt. Stat. Ann. tit. 12, § 512(4)
15. Washington	Wash. Rev. Code Ann. § 4.16.080(2)
16. Wisconsin	Wis. Stat. § 893.54
<i>Four-year limitation period</i>	
1. Florida	Fla. Stat. § 95.11(3)(a)
2. Nebraska	Neb. Rev. Stat. § 25-207
3. Utah	Utah Code § 78-12-25.1
4. Wyoming	Wyo. Stat. Ann. § 1-3-105(iv)(c)
<i>Five-year limitation period</i>	
1. Missouri	Mo. Stat. § 516.120(4)
<i>Six-year limitation period</i>	
1. Maine	Me. Rev. Stat. Ann. tit. 14, ch. 205 § 752
2. Minnesota	Minn. Stat. § 541.05 subd. 1(5)

General-Torts Limitation Periods Forty-Nine Other States



N.D. Cent. Code § 28-01-18. Actions having two-year limitations. The following actions must be commenced within two years after the claim for relief has accrued:

1. An action for libel, slander, assault, battery, or false imprisonment.
2. An action upon a statute for a forfeiture or penalty to the state.
3. An action for the recovery of damages resulting from malpractice; provided, however, that the limitation of an action against a physician or licensed hospital will not be extended beyond six years of the act or omission of alleged malpractice by a nondiscovery thereof unless discovery was prevented by the fraudulent conduct of the physician or licensed hospital. This limitation is subject to the provisions of section 28-01-25.
4. An action for injuries done to the person of another, when death ensues from such injuries, and the claim for relief must be deemed to have accrued at the time of the death of the party injured; provided, however, that when death ensues as the result of malpractice, the claim for relief is deemed to have accrued at the time of the discovery of the malpractice. However, the limitation will not be extended beyond six years of the act or omission of alleged malpractice by a nondiscovery thereof unless discovery was prevented by the fraudulent conduct of the physician or hospital.
5. An action for recovery of damages arising under chapter 5-01, and the claim for relief is deemed to have accrued at the time of the alleged offense. This limitation does not apply to any claim for relief existing at the time of the enactment of this subsection.

Grand Forks County Asbestos Litigation

	Plaintiff	Decedent	Residence State	Other States of Claimed Exposure
1.	Patricia F. Aldridge Civ. No. 18-07-C-1910	Dudley B. Aldridge	TN	MS
2.	Reginald R. Barker Civ. No. 18-06-C-209	Douglas C. Barker	NB Canada	
3.	Robert E. Buckner Civ. No. 18-07-C-1913		AL	
4.	David G. Clemmons Civ. No. 18-07-C-1915		AL	
5.	Charles E. Clifton Civ. No. 18-07-C-1916		AL	
6.	Edward W. Clifton Civ. No. 18-07-C-1917		AL	
7.	Charlie Coffey Civ. No. 18-07-C-1917		TX	MS
8.	Anna Mae Cortez Civ. No. 18-07-C-1919	Floyd J. Cortez	LA	
9.	George L. Couch Civ. No. 18-07-C-1917		AL	
10.	Rufus Cox Civ. No. 18-07-C-1920		AL	
11.	George Curtis Civ. No. 18-07-C-1923		IL	MS
12.	Steven W. Daugherty Civ. No. 18-07-C-1913		AL	
13.	Elizabeth K. Denson-Myers Civ. No. 18-07-C-1924	John E. Denson	AL	
14.	W.T. Davenport Civ. No. 18-07-C-1913		AL	
15.	Curlie B. DeRamus Civ. No. 18-07-C-1913		AL	
16.	John Gargis Civ. No. 18-07-C-1929		AL	
17.	Velma Gilbreath Civ. No. 18-07-C-1913		AL	

	Plaintiff	Decedent	Residence State	Other States of Claimed Exposure
18.	William Hayes, Jr. Civ. No. 18-07-C-1913		AL	
19.	Fred L. Huff Civ. No. 18-07-C-1933		AL	
20.	Grace Aycock Jackson Civ. No. 18-07-C-1911	Walter H. Jackson	AL	IL
21.	Brenda Jones Civ. No. 18-07-C-1934	John W. Jones	AL	
22.	Lloyd Jones Civ. No. 18-07-C-1935		AL	
23.	Roberta T. Jordan Civ. No. 18-07-C-1936	Isaac D. Jordan	AL	
24.	William E. Keeling Civ. No. 18-07-C-1913		AL	
25.	James R. Lindsey Civ. No. 18-07-C-1913		AL	
26.	J.D. Mostella Civ. No. 18-07-C-1913		AL	
27.	J. Larry Nunnally Civ. No. 18-07-C-1913	James Nunnally	AL	
28.	Henry G. Phillips Civ. No. 18-07-C-1913		AL	
29.	Gary W. Reeves Civ. No. 18-07-C-1947		AL	
30.	S.T. Ross Civ. No. 18-07-C-1913		AL	
31.	Samuel R. Stafford Civ. No. 18-07-C-1917		AL	
32.	Garland E. Thompson Civ. No. 18-07-C-1954		AL	
33.	Roy D. Todd Civ. No. 18-07-C-1913		AL	TN, ME
34.	Jerry Waites Civ. No. 18-07-C-1913		AL	
35.	Willie C. Watts Civ. No. 18-07-C-1913		AL	

1.1 A bill for an act
1.2 relating to civil actions; reducing the limitation period for bringing certain
1.3 actions; amending Minnesota Statutes 2010, sections 325D.64; 541.05,
1.4 subdivision 1.
1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2010, section 325D.64, is amended to read:

1.7 **325D.64 STATUTE OF LIMITATIONS.**

1.8 Subdivision 1. **Interpretation and effect.** An action under sections 325D.49 to
1.9 325D.66 , shall be forever barred unless commenced within ~~four~~ two years of the date
1.10 upon which the cause of action arose. No cause of action barred under existing law on
1.11 June 8, 1971 shall be revived by sections 325D.49 to 325D.66. For the purpose of this
1.12 section, a cause of action for a continuing violation is deemed to arise at any time during
1.13 the period of the violation.

1.14 Subd. 2. **Government actions; suspension.** If any proceeding is commenced
1.15 under sections 325D.49 to 325D.66, by the attorney general on behalf of the state of
1.16 Minnesota, its departments or agencies, or its political subdivisions, the running of the
1.17 statute of limitations in respect of every right of action arising under sections 325D.49 to
1.18 325D.66 , and based in whole or in part on any matter complained of in the aforementioned
1.19 proceeding shall be suspended during the pendency thereof and for one year thereafter. If
1.20 the running of the statute of limitations is suspended, the action shall be forever barred
1.21 unless commenced within the greater of either the period of suspension or ~~four~~ two years
1.22 after the date upon which the cause of action arose.

1.23 Sec. 2. Minnesota Statutes 2010, section 541.05, subdivision 1, is amended to read:

2.1 Subdivision 1. ~~Six-year~~ Four-year **limitation.** Except where the Uniform
2.2 Commercial Code otherwise prescribes, the following actions shall be commenced within
2.3 ~~six~~ four years:

- 2.4 (1) upon a contract or other obligation, express or implied, as to which no other
2.5 limitation is expressly prescribed;
2.6 (2) upon a liability created by statute, other than those arising upon a penalty or
2.7 forfeiture or where a shorter period is provided by section 541.07;
2.8 (3) for a trespass upon real estate;
2.9 (4) for taking, detaining, or injuring personal property, including actions for the
2.10 specific recovery thereof;
2.11 (5) for criminal conversation, or for any other injury to the person or rights of

2.12 another, not arising on contract, and not hereinafter enumerated;
2.13 (6) for relief on the ground of fraud, in which case the cause of action shall not be
2.14 deemed to have accrued until the discovery by the aggrieved party of the facts constituting
2.15 the fraud;
2.16 (7) to enforce a trust or compel a trustee to account, where the trustee has neglected to
2.17 discharge the trust, or claims to have fully performed it, or has repudiated the trust relation;
2.18 (8) against sureties upon the official bond of any public officer, whether of the
2.19 state or of any county, town, school district, or a municipality therein; in which case the
2.20 limitation shall not begin to run until the term of such officer for which the bond was
2.21 given shall have expired;
2.22 (9) for damages caused by a dam, used for commercial purposes; or
2.23 (10) for assault, battery, false imprisonment, or other tort resulting in personal injury,
2.24 if the conduct that gives rise to the cause of action also constitutes domestic abuse as
2.25 defined in section 518B.01.

2.26 Sec. 3. **EFFECTIVE DATE.**

2.27 Sections 1 and 2 are effective August 1, 2011, and apply to causes of action
2.28 occurring or accruing on or after that date.

**Jurisdictions having a general breach-of-contract
limitation period of four years or less**

Four years

- | | | |
|-----|--------------|---|
| (1) | Florida | Fla. Stat. § 95.11(3)(actions based on
unwritten contracts, four years; actions
based on written contracts, five years) |
| (2) | Georgia | Ga. Code Ann. § 9-3-25
(except for actions based on written
contracts, for which the limitation period
is six years. <u>Id.</u> § 9-3-24) |
| (3) | Idaho | Idaho Code Ann. § 5-217
(except for actions based on written
contracts, for which the limitation period
is five years. <u>Id.</u> § 5-216) |
| (4) | Nebraska | Neb. Rev. Stat. § 2-206
(except for actions based on written
contracts, for which the limitation period
is five years. <u>Id.</u> § 5-216) |
| (5) | Nevada | Nev. Rev. Stat. § 11.190 (actions based on
unwritten contracts, four years; actions
based on written contracts, six years) |
| (6) | New Mexico | N.M. Stat. § 37-1-4
(except for actions based on written
contracts, for which the limitation period
is six years. <u>Id.</u> § 37-1-3) |
| (7) | Pennsylvania | 42 Pa. Stat. Ann. § 5525 |
| (8) | Texas | Tex. Civ. Prac. & Rem. Code Ann. § 16.004 |
| (9) | Utah | Utah Code Ann. §78-B-2-307
(except for actions based on written
contracts, for which the limitation period
is six years. <u>Id.</u> §78-B-2-309) |

Three years

- | | | |
|------|----------------------|---|
| (1) | Alaska | Alaska Stat. § 09.10.053 |
| (2) | Arizona | Ariz. Rev. Stat. Ann. § 12-543
(except for actions based on a written contract, for which the limitation period is six years. <u>Id.</u> § 12-548) |
| (3) | Arkansas | Ark. Code Ann. § 16-56-10
(except for actions based on a written contract, for which the limitation period is five years. <u>Id.</u> § 16-56-11) |
| (4) | Colorado | Colo. Rev. Stat. § 13-80-101
(except for actions for the recovery of a liquidated debt or an unliquidated determinable amount, which must be brought within six years. <u>Id.</u> § 13-80-103.5) |
| (5) | Delaware | Del. Code Ann. Tit. 10, § 81006 |
| (6) | District of Columbia | D.C. Code § 12-301 |
| (7) | Kansas | Kan. Stat. Ann. § 60-512
(except for actions based on a written contract, for which the limitation period is five years. <u>Id.</u> § 60-511) |
| (8) | Maryland | Md. Code Ann. § 5-101 |
| (9) | Mississippi | Miss. Code Ann. §15-1-49 (actions based on a written contract); <u>id.</u> § 15-1-29(actions based on an unwritten contract). |
| (10) | New Hampshire | N.H. Rev. Stat. Ann. § 508:4 |
| (11) | North Carolina | N.C. Gen. Stat. § 1-52 |

- (12) Oklahoma Okla. Stat., tit. 12, § 95(A) (actions based on
unwritten contracts, three years; actions
based on written contracts, five years)
- (13) South Carolina S.C. Code Ann. § 15-3-530
- (14) Virginia Va. Code Ann. § 8.01-246 (actions based on
unwritten contracts, three years; actions
based on written
contracts, five years)
- (15) Washington Wash. Rev. Code § 4.16.080
(except for actions based on a written
contract or an accounts receivable, for
which the limitation period is six years.
Id. § 4.16.040)

Two years

- (1) California Cal. Civ. Proc. Code § 339
(except for actions based on a written
contract, for which the limitation period
is four years. Id. § 337)

Sixty-third
Legislative Assembly
of North Dakota

HOUSE/SENATE BILL NO.

Introduced by

1 A BILL for an Act to amend and reenact section 28-01-16 of the North Dakota Century
2 Code, relating to statutes of limitations for civil actions.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 28-10-16 of the North Dakota Century
5 Code is amended and reenacted as follows:

6 **28-01-16. Actions having ~~six~~ three year limitations.** The following actions
7 must be commenced within ~~six~~ three years after the claim for relief has accrued:

- 8 1. An action upon a contract, obligation, or liability, express or implied,
9 subject to the provisions of sections 28-01-15 and 41-02-104.
- 0 2. An action upon a liability created by statute, other than a penalty or
1 forfeiture, when not otherwise expressly provided.
- 2 3. An action for trespass upon real property.
- 3 4. An action for taking, detaining, or injuring any goods or chattels, including
4 actions for the specific recovery of personal property.
- 5 5. An action for criminal conversation or for any other injury to the person of
6 rights of another not arising upon contract, when not otherwise expressly
7 provided.
- 8 6. An action for relief on the ground of fraud in all cases both at law and in
9 equity, the claim for relief in such case not to be deemed to have accrued
0 until the discovery by the aggrieved party of the facts constituting the fraud.

1 **SECTION 2. EFFECTIVE DATE.** Section 1 is effective August 1, 2013, and
2 applies to causes of action accruing on or after that date.