SENATE BILL 423

Short Title:  Limit for Wrongful Death Action.                                    (Public)

Sponsors: Senator Sands.

Referred to:  Judiciary II.

April 1, 1991

1    A BILL TO BE ENTITLED
2    AN ACT TO CHANGE THE STATUTE OF LIMITATIONS FOR ALL WRONGFUL
3        DEATH ACTIONS TO WITHIN THREE YEARS OF THE DATE OF DEATH.
4    The General Assembly of North Carolina enacts:
5            Section 1.  G.S. 1-53 reads as rewritten:
6    "**§ 1-53. Two years.**
7        Within two years –
8            (1)    An action against a local unit of government upon a contract,
9                    obligation or liability arising out of a contract, express or implied. This
10                   subdivision shall not apply to actions based upon bonds, notes and
11                   interest coupons or when a different period of limitation is prescribed
12                   by this Article.
13           (2)    An action to recover the penalty for usury.
14           (3)    The forfeiture of all interest for usury.
15           (4)    ~~Actions for damages on account of the death of a person caused by the~~
16                   ~~wrongful act, neglect or fault of another under G.S. 28A-18-2; the~~
17                   ~~cause of action shall not accrue until the date of death. Provided that,~~
18                   ~~whenever the decedent would have been barred, had he lived, from~~
19                   ~~bringing an action for bodily harm because of the provisions of G.S. 1-~~
20                   ~~15(c) or 1-52(16), no action for his death may be brought~~."
21           Sec. 2.  G.S. 1-52 reads as rewritten:
22   "**§ 1-52. Three years.**
23       Within three years an action –

(1)     Upon a contract, obligation or liability arising out of a contract, express or implied, except those mentioned in the preceding sections or in G.S. 1-53(1).

(2)     Upon a liability created by statute, either state or federal, unless some other time is mentioned in the statute creating it.

(3)     For trespass upon real property. When the trespass is a continuing one, the action shall be commenced within three years from the original trespass, and not thereafter.

(4)     For taking, detaining, converting or injuring any goods or chattels, including action for their specific recovery.

(5)     For criminal conversation, or for any other injury to the person or rights of another, not arising on contract and not hereafter enumerated.

(6)     Against the sureties of any executor, administrator, collector or guardian on the official bond of their principal; within three years after the breach thereof complained of.

(7)     Against bail; within three years after judgment against the principal; but bail may discharge himself by a surrender of the principal, at any time before final judgment against the bail.

(8)     For fees due to a clerk, sheriff or other officer, by the judgment of a court; within three years from the rendition of the judgment, or the issuing of the last execution thereon.

(9)     For relief on the ground of fraud or mistake; the cause of action shall not be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(11)    For the recovery of any amount under and by virtue of the provisions of the Fair Labor Standards Act of 1938 and amendments thereto, said act being an act of Congress.

(12)    Upon a claim for loss covered by an insurance policy which is subject to the three-year limitation contained in lines 158 through 161 of the Standard Fire Insurance Policy for North Carolina, G.S. 58-44-15(c).

(13)    Against a public officer, for a trespass, under color of his office.

(14)    An action under Chapter 75B of the General Statutes, the action in regard to a continuing violation accrues at the time of the latest violation.

(15)    For the recovery of taxes paid as provided in G.S. 105-267 and G.S. 105-381.

(16)    Unless otherwise provided by statute, for personal injury or physical damage to claimant's property, the cause of action, except in causes of actions referred to in G.S. 1-15(c), shall not accrue until bodily harm to the claimant or physical damage to his property becomes apparent or ought reasonably to have become apparent to the claimant, whichever event first occurs. Provided that no cause of action shall accrue more than 10 years from the last act or omission of the defendant giving rise to the cause of action.

1            (17)    Against a public utility, electric or telephone membership corporation,
2                    or a municipality for damages or for compensation for right-of-way or
3                    use of any lands for a utility service line or lines to serve one or more
4                    customers or members unless an inverse condemnation action or
5                    proceeding is commenced within three years after the utility service
6                    line has been constructed or by October 1, 1984, whichever is later.
7            (18)    For damages on account of the death of a person caused by the
8                    wrongful act, neglect, or default of another under G.S. 28A-18-2; the
9                    cause of action shall not accrue until the date of death."
10         Sec. 3.  This act is effective upon ratification and applies to all wrongful
11 death actions that have not reached final judgment as of this date.