

HOUSE BILL NO. 301

INTRODUCED BY K. SEEKINS-CROWE, A. NICASTRO, M. BERTOGLIO, S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATUTES OF LIMITATIONS RELATING TO REAL PROPERTY; PROVIDING FOR WHEN A CLAIM OR CAUSE OF ACTION FOR INJURY TO REAL PROPERTY ARISES; PROVIDING THAT A CLAIM MUST BE BROUGHT WITHIN THE PERIOD OF LIMITATION; AND AMENDING SECTION 27-2-102, MCA."

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

Section 1. Section 27-2-102, MCA, is amended to read:

"27-2-102. When action commenced. (1) For the purposes of statutes relating to the time within which an action must be commenced:

(a) a claim or cause of action accrues when all elements of the claim or cause exist or have occurred, the right to maintain an action on the claim or cause is complete, and a court or other agency is authorized to accept jurisdiction of the action;

(b) an action is commenced when the complaint is filed.

(2) For the purposes of subsection (1)(a), a claim or cause of action for injury to real property arises when:

(a) the conduct or act that caused the injury is complete, regardless of whether or not injury from that same original conduct or act continues; and

(b) the real property owner knows or has reason to know of injury to the owner's property.

~~(2)~~(3) Unless otherwise provided by statute, the period of limitation begins when the claim or cause of action accrues. Lack of knowledge of the claim or cause of action, or of its accrual, by the party to whom it has accrued does not postpone the beginning of the period of limitation.

~~(3)~~(4) The period of limitation does not begin on any claim or cause of action for an injury to person or property until the facts constituting the claim have been discovered or, in the exercise of due diligence, should have been discovered by the injured party if:

1 (a) the facts constituting the claim are by their nature concealed or self-concealing; or

2 (b) before, during, or after the act causing the injury, the defendant has taken action which

3 prevents the injured party from discovering the injury or its cause.

4 ~~(4)(5)~~ Subsection ~~(3)~~ (4) does not apply to actions involving the limitations contained in 27-2-205.

5 (6) If a claim or cause of action for injury to real property that has accrued under this section is not
6 brought within the period of limitation, the claim or cause of action is barred with respect to the real property
7 owner and all subsequent owners of the real property."

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