62nd Legislature HB0532.01

1	HOUSE BILL NO. 532
2	INTRODUCED BY T. BERRY
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4	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATUTES OF LIMITATION; PROVIDING THAT
5	DAMAGES DO NOT NEED TO BE FULLY ASCERTAINABLE FOR A CLAIM OR CAUSE OF ACTION TO
6	ACCRUE; REVISING THE PERIOD OF LIMITATION FOR LEGAL MALPRACTICE ACTIONS; AMENDING
7	SECTIONS 27-2-102 AND 27-2-206, MCA; AND PROVIDING AN APPLICABILITY DATE."
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9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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11	Section 1. Section 27-2-102, MCA, is amended to read:
12	"27-2-102. When action commenced. (1) For the purposes of statutes relating to the time within which
13	an action must be commenced:
14	(a) a claim or cause of action accrues when all elements of the claim or cause exist or have occurred,
15	the right to maintain an action on the claim or cause is complete, and a court or other agency is authorized to
16	accept jurisdiction of the action;. For accrual purposes, damages need not be fully ascertainable. It is only
17	required that some form of damage, regardless of nature, has occurred or can be alleged to have occurred.
18	(b) an action is commenced when the complaint is filed.
19	(2) Unless otherwise provided by statute, the period of limitation begins when the claim or cause of action
20	accrues. Lack of knowledge of the claim or cause of action, or of its accrual, by the party to whom it has accrued
21	does not postpone the beginning of the period of limitation.
22	(3) The period of limitation does not begin on any claim or cause of action for an injury to person or
23	property until the facts constituting the claim have been discovered or, in the exercise of due diligence, should
24	have been discovered by the injured party if:
25	(a) the facts constituting the claim are by their nature concealed or self-concealing; or
26	(b) before, during, or after the act causing the injury, the defendant has taken action which that prevents
27	the injured party from discovering the injury or its cause.
28	(4) Subsection (3) does not apply to actions involving the limitations contained in 27-2-205."
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30	Section 2. Section 27-2-206, MCA, is amended to read:

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"27-2-206. Actions for legal malpractice. An action against an attorney licensed to practice law in Montana or a paralegal assistant or a legal intern employed by an attorney based upon the person's alleged professional negligent act or for error or omission in the person's practice must be commenced within 3 years after the plaintiff discovers or through the use of reasonable diligence should have discovered the act, error, or omission, whichever occurs last, but in. Notwithstanding the provisions of 27-2-102(1)(a) and regardless of whether legal representation related to the subject matter of a legal malpractice claim is ongoing, the period of limitation begins and a claim or cause of action accrues when the plaintiff discovers or through the use of reasonable diligence should have discovered the act, error, or omission. In no case may the action be commenced after 10 years from the date of the act, error, or omission."

<u>NEW SECTION.</u> **Section 3. Applicability.** [This act] applies to causes of action that arise after [the effective date of this act].

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