

By Senator Harris

24-880-98

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled
An act relating to statute of limitations;
amending s. 95.051, F.S.; providing that the
fraudulent concealment of the identity of the
person to be sued tolls the statute; providing
an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 95.051, Florida
Statutes, is amended to read:

95.051 When limitations tolled.--

(1) The running of the time under any statute of
limitations except ss. 95.281, 95.35, and 95.36 is tolled by:

(a) Absence from the state of the person to be sued.

(b) Use by the person to be sued of a false name that
is unknown to the person entitled to sue so that process
cannot be served on the person to be sued.

(c) Concealment in the state of the person to be sued
so that process cannot be served on him or her.

(d) Fraudulent concealment of the identity of a person
to be sued.

(e)~~(d)~~ The adjudicated incapacity, before the cause of
action accrued, of the person entitled to sue. In any event,
the action must be begun within 7 years after the act, event,
or occurrence giving rise to the cause of action.

(f)~~(e)~~ Voluntary payments by the alleged father of the
child in paternity actions during the time of the payments.

(g)~~(f)~~ The payment of any part of the principal or
interest of any obligation or liability founded on a written
instrument.

1 (h)~~(g)~~ The pendency of any arbitral proceeding
2 pertaining to a dispute that is the subject of the action.
3 (i)~~(h)~~ The minority or previously adjudicated
4 incapacity of the person entitled to sue during any period of
5 time in which a parent, guardian, or guardian ad litem does
6 not exist, has an interest adverse to the minor or
7 incapacitated person, or is adjudicated to be incapacitated to
8 sue; except with respect to the statute of limitations for a
9 claim for medical malpractice as provided in s. 95.11. In any
10 event, the action must be begun within 7 years after the act,
11 event, or occurrence giving rise to the cause of action.

12
13 Paragraphs (a)-(c) shall not apply if service of process or
14 service by publication can be made in a manner sufficient to
15 confer jurisdiction to grant the relief sought. This section
16 shall not be construed to limit the ability of any person to
17 initiate an action within 30 days of the lifting of an
18 automatic stay issued in a bankruptcy action as is provided in
19 11 U.S.C. s. 108(c).

20 Section 2. This act shall take effect July 1, 1998.

21
22 *****

23 SENATE SUMMARY

24 Provides that the fraudulent concealment of the identity
25 of a person to be sued tolls the statute of limitations.

26
27
28
29
30
31