

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 2419

"TO CLARIFY THE LIMITATION ON ACTIONS AGAINST LONG-TERM CARE
FACILITIES INVOLVING RESIDENT CARE; TO CLARIFY THE ADMISSIBILITY OF
UNRESOLVED ALLEGATIONS OF REGULATORY VIOLATIONS, AND TO AUTHORIZE
FEES AND COSTS."

Amendment No. 1 to House Bill No. 2419.

Amend House Bill No. 2419 as originally introduced:

Page 2, line 18, insert the following:

“SECTION 3. Arkansas Code § 16-56-105, pertaining to actions with
limitation of three (3) years, is amended to read as follows:

16-56-105. Actions with limitation of three years.

(a) The following actions shall be commenced within three (3) years
after the cause of action accrues:

(1) All actions founded upon any contract, obligation, or
liability not under seal and not in writing, excepting such as are brought
upon the judgment or decree of some court of record of the United States or
of this or some other state;

(2) All actions for arrearages of rent not reserved by some
instrument in writing, under seal;

(3) All actions founded on any contract or liability, expressed
or implied;

(4) All actions for trespass on lands;

(5) All actions for libels; and

(6) All actions for taking or injuring any goods or chattels.

(b) This section shall not apply to an action founded upon any
liability arising out of resident care provided in a long-term care facility.

SECTION 4. Arkansas Code § 16-56-111 is amended to read as follows:
6-56-111. Notes and instruments in writing and other writings.

(a) Actions to enforce written obligations, duties, or rights, except
those to which § 4-4-111 is applicable, shall be commenced within five (5)
years after the cause of action shall accrue.

(b) However, partial payment or written acknowledgment of default
shall toll this statute of limitations.

(c) This section shall not apply to any action founded upon any
liability arising out of resident care provided in a long-term care facility.



SECTION 5. Arkansas Code § 20-10-1209, pertaining to civil enforcement of resident rights, is amended by adding the following new subdivision:

(d) Any action founded upon any liability arising out of deprivation or infringement of resident rights under this subchapter shall be commenced within two (2) years after the cause of action accrues, or from the date the alleged harm, breach, injury, deprivation infringement, loss, or damage was known or reasonably should have been known.

SECTION 6. (a) If a Notice of Violation, a Statement of Deficiencies, or any other similar document alleging violations of state or federal statutory or regulatory laws that is issued by the Office of Long-term Care or by the federal government against a long-term care facility is the subject of a state or federal administration appeal or civil action, then the notice, statement, or other similar document shall not be admissible as evidence of a deficient practice, a failure to act in accordance with the appropriate standard of care, or a violation of any federal or state law or regulation in any legal proceeding.

(b) If a long-term care facility has entered into a settlement agreement with the Office of Long-Term Care or the federal government to resolve allegations made in a Notice of Violation, a Statement of Deficiencies, or any other similar document alleging violations of state or federal statutory or regulatory laws that is issued by the Office of Long-term Care or by the federal government against a long-term care facility, then the settlement agreement shall not be admissible as evidence of a deficient practice, a failure to act in accordance with the appropriate standard of care, or a violation of any federal or state law or regulation in any legal proceeding.

SECTION 7. Notwithstanding any law to the contrary, the prevailing party in any civil action to recover on any liability arising out of resident care provided in a long-term care facility may be allowed a reasonable attorney's fee to be assessed by the court and collected as costs.

SECTION 8. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that in order to alleviate confusion in the law regarding the commencement of actions against long-term care facilities and to minimize unnecessary expenditures, clarification in the limitations on actions arising out of resident care in a long-term care facility should be provided for as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

The Amendment was read _____
By: Representative Gillespie
KLT/JMB - 031220031049
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Chief Clerk