



OHIO ALLIANCE FOR CIVIL JUSTICE



February 5, 2020

Senate Judiciary Committee

Substitute House Bill 251- Proponent Testimony

Chairman Eklund, Vice Chair Manning, and Ranking Member Thomas, thank you for the opportunity to provide proponent testimony on Substitute House Bill 251.

My name is Anne Marie Sferra and I am here on behalf of the Ohio Alliance for Civil Justice (OACJ). I am an attorney with Bricker & Eckler who serves as counsel to the OACJ. By way of background, The OACJ was founded in the mid-1980s to stop lawsuit abuse and promote a common-sense civil justice system in Ohio. The OACJ is comprised of representatives of dozens of Ohio trade and professional associations, small and large businesses, medical groups, farmers, non-profit organizations and local government associations for a combined representation of more than 100,000 individuals and businesses. Our leadership team includes representatives from the following organizations: NFIB, Ohio Chamber of Commerce, Ohio Council of Retail Merchants, Ohio Hospital Association, Ohio Manufacturers' Association, Ohio Society of CPAs, Ohio State Medical Association.

The benefits of Substitute House Bill 251 are expansive. Ohio's business climate does not exist in a vacuum. We must continually look at what other states are doing to remain competitive. Today we discuss the need to reduce the statute of limitations on written contracts to put Ohio in a position to further compete.

This bill will provide predictability for business owners. Currently, a business owner must maintain documents and records pertaining to a written contract for at least the statute of limitations time period after the contract expires. This bears an expense on the business. With the increase in technology and more sophisticated monitoring of contractual relationships, there is no reason to maintain these records for such a long duration.

A shorter statute of limitations also provides certainty against risks for business owners in Ohio. Under Ohio's current statute of limitations for contracts, businesses face prolonged risk of liability because parties to a contract have up to eight years to bring a claim for breach. This potential liability exists even when a company has fulfilled its contractual obligations, no matter how satisfactory the performance may have been. The

other party has eight years to determine if it was satisfactory rather than a shorter period of time. Eight years is a long time to not know if a suit will be filed against the business. A shorter statute of limitations provides more certainty to businesses in Ohio and businesses who are looking to move to Ohio.

Furthermore, reducing the period for potential litigation will allow businesses to move to future projects with the confidence that the previous contract can no longer be the subject of litigation. Reducing the statute of limitations on written and oral contracts is a low risk strategy to improve Ohio's business climate.

Recently, in Forbes' "Best States for Business in 2019," Ohio ranked 29th out of 50. The top ten states for business on this list all have shorter statutes of limitations -- for both written and oral contracts -- than Ohio, with its current statutory scheme of eight years for a written contract and six years for an oral contract. In addition, some of the nearby states with which Ohio competes for business, including Michigan, Pennsylvania, and Tennessee, all have lower statutes of limitations on written contracts than Ohio's current law.

Further, Substitute House Bill 251 modifies Ohio's borrowing statute in three ways, by: (1) by narrowing its scope to tort claims; (2) extending the statute of limitations for many consumer debts if the statute of limitations where the cause of action accrued is shorter under that state's substantive law; and (3) applying this change retroactively.

The Ohio Alliance for Civil Justice continues to appreciate the work done in 2012 when the General Assembly reduced the statute of limitations on written contracts from fifteen years to eight years. We are aware of no negative impacts from this reduction. We note that soon after Ohio reduced its statute of limitations for written contracts, Kentucky also changed its fifteen year statute of limitations to a much shorter period. Business attraction and growth is a very competitive environment. Now, moving from eight years to six years will likely see a similarly easy transition.

In conclusion, Substitute House Bill 251 is an important piece of legislation and is a compromise between many interested parties. The Ohio House unanimously passed Substitute House Bill 251. Therefore, we urge the Ohio Senate to support this measure to provide stability and certainty for business owners in Ohio.

Thank you for the opportunity to speak in support of Substitute House Bill 251. I am happy to entertain questions from the committee.