

NO FISCAL IMPACT**Drafting Number:** LLS 12-0666**Date:** January 26, 2012**Prime Sponsor(s):** Sen. Tochtrop**Bill Status:** Senate Judiciary

Rep. Gardner B.

Fiscal Analyst: Kirk Mlinek (303-866-3521)**TITLE:** CONCERNING THE STATUTORY TIME LIMIT FOR COMMENCING CERTAIN CIVIL ACTIONS.**Summary of Legislation**

Under current law, legal actions for breach of contract are subject to a three-year statute of limitations unless the contract involves a liquidated debt or determinable amount owed, in which case a six-year statute of limitations applies.

The bill clarifies that the six-year statute of limitations for liquidated or determinable damages applies to all actions in which the debt claimed is for care given or delivered, services rendered, goods sold and delivered, and other accounting debts. The bill also codifies that defense of an action for liquidated or determinable damages on the basis of an unreasonable calculation of the amount owed does not make the action ineligible for the six-year statute of limitations.

The bill takes effect on August 7, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled and no referendum petition is filed.

Background

In September 2010, the Colorado Court of Appeals issued its decision in the case of *Portercare Adventist Health System v. Lego*, in which a hospital sued to recover an unpaid bill. The court held that, under current law, the six-year statute of limitations for certain contract actions in which damages are "liquidated" or "determinable" does not apply to a claim for breach of a contract implied in fact.

According to the *Portercare* holding, a disputed hospital bill alone is insufficient to establish a liquidated or determinable amount of damages. Therefore, such a claim for an unpaid bill is barred after the expiration of the standard three-year statute of limitations in contract actions. The *Portercare* case has been appealed and the Colorado Supreme Court granted *certiorari* to hear the case in its current session.

Assessment

The bill is assessed as having no fiscal impact. To the extent that state and local agencies are involved in contract litigation, the fiscal note assumes that legal action is commenced in a timely manner and as such will be unaffected by the bill. While the bill potentially extends to six years the

statute of limitations for certain contract actions, the number of actions that would be revived are minimal, applying only to the first three years the bill is in effect, and will not significantly affect the workload of the courts.

Departments Contacted

Judicial

Law

Revenue

Personnel and Administration