

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0322/1dn  
GMM:kjf:rs

November 10, 2010

Senator Grothman:

2009 Act 20 includes a statute of limitations requiring a civil action for compensatory and punitive damages to be filed within 60 days after the final decision of DWD or LIRC is mailed to the complainant or be barred. Statutes of limitation are substantive, not procedural or remedial, therefore legislation affecting a statute of limitations is presumed to apply prospectively only, not retroactively. As such, when legislation affects a statute of limitations, a cause of action that accrues prior to the effective date of the change is governed by the prior statute and a cause of action that accrues beginning on the effective date is governed by the new legislation. See *Betthausser v. Medical Protective Co.*, 172 Wis. 2d 141 (1992), *State v. Hamilton*, 2002 WI App 89, 253 Wis. 2d 644, and ss. 990.06 and 991.07.

Under 2009 Act 20, a cause of action for compensatory and punitive damages accrues when the administrative proceeding is completed and, as mentioned above, the statute of limitations begins to run when the final decision is mailed to the complainant. As such, prior law continues to apply to an administrative proceeding that is completed before the effective date of this draft and the draft only applies to an administrative proceeding that is completed beginning on the effective date of the draft.

Accordingly, the draft includes an Initial Applicability provision clarifying that the draft first applies to an administrative proceeding in which the final decision is mailed to the complainant on the effective date of the draft.

If you have any questions about the draft or this drafter's note, please do not hesitate to contact me at the phone number or e-mail address captioned below.

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