



1995 SENATE BILL 574

February 28, 1996 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Judiciary.

1 **AN ACT to amend** 893.12 of the statutes; **relating to:** statute of limitations.

Analysis by the Legislative Reference Bureau

Under current law, if a payment is made on behalf of an injured party, that payment extends the time for the running of the statute limiting the time a person has to commence an action to 3 years after the date of the last payment. In *Parr v. Milwaukee Building and Construction Trades, AFL-CIO*, 177 Wis. 2d 140, 501 N.W. 2d 858 (Ct. App. 1993), the court states that the term "payment" is ambiguous because it does not clarify whether a check tendered but not cashed is considered a payment under the statute. The court decided that, if a check is not cashed, there has not been a "payment" for purposes of running of the statute of limitations. This bill codifies that court decision.

For further information, see the NOTES provided by the law revision committee of the joint legislative council.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is introduced by the law revision committee under s. 13.83 (1) (c) 1., stats. After careful consideration of the court of appeals decision in *Parr v. Milwaukee Building and Construction Trades, AFL-CIO*, 177 Wis.2d 140, 501 N.W. 2d 858 (Ct. App. 1993), the law revision committee has determined that codifying this decision is desirable as a matter of public policy.

2 **SECTION 1.** 893.12 of the statutes is amended to read:
3 **893.12 Advance payment of damages; limitation extended.** The period
4 fixed for the limitation for the commencement of actions, if a payment is made as
5 described in s. 885.285 (1), shall be either the period of time remaining under the

SECTION 1

1 original statute of limitations or 3 years ~~from~~ after the date of the last payment made
2 under s. 885.285 (1), whichever is greater. If payment is by check, draft or other
3 order, payment is considered made under s. 885.285 (1) when the check, draft or other
4 order is cashed or negotiated.

5 (END)