

LEGISLATIVE BILL 55

Approved by the Governor February 15, 2000

Introduced by Brashear, 4

AN ACT relating to civil procedure; to authorize commencement of a new action after the failure of an action and expiration of the applicable statute of limitations as prescribed.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) If an action is commenced within the time prescribed by the applicable statute of limitations but the plaintiff fails in the action for a reason other than a reason specified in subsection (2) of this section and the applicable statute of limitations would prevent the plaintiff from commencing a new action, the plaintiff, or his or her representatives if the plaintiff has died and the cause of action survived, may commence a new action within the period specified in subsection (3) of this section.

(2) A new action may not be commenced in accordance with subsection (1) of this section when the original action failed (a) on the merits of the action, (b) as a result of voluntary dismissal by the plaintiff for a reason other than loss of diversity jurisdiction in a federal court, (c) as a result of the plaintiff's failure to serve a defendant within the time prescribed in section 25-217, or (d) as a result of any other inaction on the part of the plaintiff where the burden of initiating an action was on the plaintiff.

(3) A new action may be commenced in accordance with subsection (1) of this section within a period equal to the lesser of (a) six months after the failure of the action or (b) a period after the failure of the action equal to the period of the applicable statute of limitations of the original action.