



## Ohio Revised Code

### Section 2743.16 Statute of limitations - compromise of claims.

Effective: September 30, 2021

Legislation: House Bill 110

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(A) Subject to division (B) of this section, civil actions against the state permitted by sections 2743.01 to 2743.20 of the Revised Code shall be commenced no later than two years after the date of accrual of the cause of action or within any shorter period that is applicable to similar suits between private parties.

(B) If a person suffers injury, death, or loss to person or property, as contemplated in sections 9.821 to 9.83 of the Revised Code, the person or the representative of that person or of the estate of that person shall attempt, prior to the commencement of an action based upon that injury, death, or loss, to have the claim based upon that injury, death, or loss compromised by the office of risk management in the department of administrative services or satisfied by the state's liability insurance. No action for any such claim shall be filed in the court of claims until the person, the representative of that person, or the estate of the person asserting the claim has complied with this division. Any compromise by the office of risk management shall be paid from the risk management reserve fund created in section 9.823 of the Revised Code. The acceptance by the claimant of any such compromise or settlement shall be final and conclusive on the person or representative of the person or the person's estate and is a complete release against the state insofar as the particular department, board, office, commission, agency, institution, or other instrumentality is named, or could be named, as a defendant and results in a complete waiver of any cause of action, based on the same act or omission, that the person or representative of the person or the person's estate has against any officer or employee, as defined in section 109.36 of the Revised Code.

If the state, upon a request of the person or of the representative of the person or the person's estate to compromise such a claim, does not compromise the claim within a reasonable time after the request is made and at least sixty days prior to the expiration of the applicable period of limitations for commencement of an action based upon the injury, death, or loss, or if the amount of the claim is in excess of the state's liability insurance coverage, the person or the representative of the person or the person's estate may commence an action in the court of claims under this chapter to recover the claim or the unpaid amount of the claim from the state. Neither the person nor the representative of



the person or the person's estate shall commence an action against the officer or employee to recover damages for the injury, death, or loss until after the person or representative commences the action in the court of claims against the state and the action in that court is terminated. If the court of claims determines that the state is not liable for the injury, death, or loss, the person or the representative of the person or the person's estate is not prohibited by this division from commencing an action against the officer or employee to recover the claim or the unpaid amount of the claim based upon the injury, death, or loss. Nothing in this division shall affect the immunity of any state officer or employee pursuant to section 9.86 of the Revised Code.

If a person or his or his estate's representative attempts, pursuant to this division, to have a claim compromised by the state or satisfied by the state's liability insurance, and if the state determines not to compromise the claim, the state's liability insurance will not cover the claim, or the claim is in excess of the state's liability insurance coverage, then the state shall so notify the person or his or his estate's representative in writing. The notice shall be provided as soon as possible after the state determines not to compromise the claim or it is determined that the state's liability insurance will not cover either the claim or the entire claim.

(C) All summaries, reports, and records received and maintained by the office of risk management in the department of administrative services in connection with claims against the state are not public records, shall be held in confidence, shall not be released, and shall not be subject to discovery or introduction in evidence in any federal or state civil action.

(D)(1) The period of limitations prescribed by division (A) of this section shall be tolled pursuant to section 2305.16 of the Revised Code.

(2) If a person suffers injury, death, or loss to person or property contemplated by sections 9.82 to 9.83 of the Revised Code, if the person or the representative of the person or the person's estate is required by division (B) of this section to attempt to have the claim based upon the injury, death, or loss compromised by the state or satisfied by the state's liability insurance prior to commencing an action based upon the injury, death, or loss, and if the person or the representative of the person or the person's estate complies with that division prior to the expiration of the applicable period of limitations prescribed by division (A) of this section for the commencement of an action in the court of claims based upon that injury, death, or loss, the period of time commencing with the submission



of the claim to the state for the purposes of compromise or liability insurance satisfaction and ending with the state's compromise of the claim, the satisfaction of the claim by the state's liability insurance, or the provision of the written notice described in division (B) of this section shall not be computed as any part of the period within which an action based upon that injury, death, or loss must be brought.

(3) If a person or the representative of a person or a person's estate commences an action to recover a claim, or the unpaid amount of a claim, against the state in the court of claims and that claim arises out an injury, death, or loss contemplated by sections 9.82 to 9.83 of the Revised Code, the statute of limitations on the claim against the officer or employee shall not run during any time when the action against the state is pending in the court of claims.