

FIFTEENTH GUAM LEGISLATURE
1980 (SECOND) Regular Session

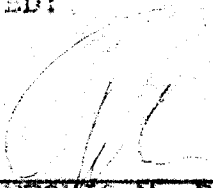
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 421, "An Act to amend the Code of Civil Procedure relative to the time of commencing actions", was on the 12th day of February 1980, duly and regularly passed.



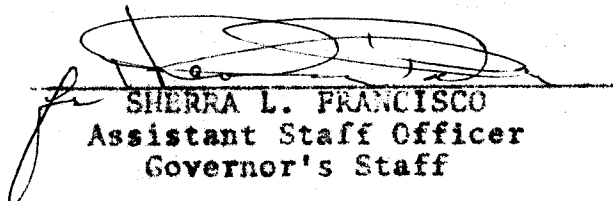
ANTONIO R. UNPINGCO
Acting Speaker

ATTESTED:



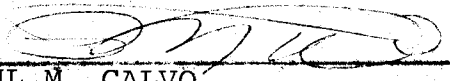
ANTONIO M. PALOMO
Acting Legislative Secretary

This Act was received by the Governor this 22nd day of
February, 1980, at 5:00 o'clock P.M.



SHERRA L. FRANCISCO
Assistant Staff Officer
Governor's Staff

APPROVED:



PAUL M. CALVO
Governor of Guam

DATED: 3/3/80 11:05 A.M.
P.L. 15-106

FIFTEENTH GUAM LEGISLATURE
1980 (SECOND) Regular Session

Bill No. 421

Introduced by P. F. Perez, Jr.

AN ACT TO AMEND THE CODE OF CIVIL
PROCEDURE RELATIVE TO THE TIME OF
COMMENCING ACTIONS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Paragraph 2 of Section 337 of the Code of
3 Civil Procedure is amended to read:

4 "2. An action to recover (1) upon a book account
5 whether consisting of one or more entries; (2) upon an
6 account stated based upon an account in writing, but the
7 acknowledgement of the account stated need not be in
8 writing; (3) a balance due upon a mutual, open and current
9 account; provided, however, that where an account stated is
10 based upon an account of one item, and where an account
11 stated is based upon an account of more than one item, the
12 time shall begin to run from the date of the last item."

13 Section 2. A paragraph 3 is added to Section 337 of the
14 Code of Civil Procedure to read:

15 "3. An action based upon the written rescission of
16 a contract. The time begins to run from the date upon
17 which occurred the facts that the aggrieved party claim
18 permits him to rescind the contract. Where the ground for
19 rescission is fraud or mistake, the time does not begin to
20 run until the aggrieved party discovers the facts constitu-
21 ting the fraud or mistake. Where the ground for rescission
22 is misrepresentation relating to an offer to insure or an
23 application to obtain insurance, the time does not begin
24 to run until the representation becomes false."

1 Section 3. Section 337a is added to the Code of Civil
2 Procedure to read:

3 "Section 337a. The term 'book account' means a
4 statement which constitutes the principal record of one or
5 more transactions between a debtor and a creditor arising
6 out of a contract of some fiduciary relation, and which
7 shows the debits and credits in connection therewith, and
8 against whom and in favor of whom the entries are made, is
9 entered in the regular course of business as conducted by
10 the creditor or fiduciary, and is kept in a reasonably
11 permanent form and manner and is (1) in a bound book, or
12 (2) on a sheet or sheets fastened in a book or to backing
13 but detachable therefrom, or (3) on a card or cards of a
14 permanent character, or is kept in any reasonably permanent
15 form and manner."

16 Section 4. Paragraphs 5, 6, 7 and 8 are added to Section
17 338 of the Code of Civil Procedure to read:

18 "5. An action upon a bond of a public official except
19 any cause of action based on fraud or embezzlement is not
20 to be deemed to have accrued until the aggrieved party or
21 his agent shall have discovered the facts constituting the
22 cause of action upon the bond.

23 6. An action against a notary public on his bond on
24 malfeasance or misfeasance is not deemed to have accrued
25 until the aggrieved party shall have discovered the facts
26 constituting the cause of action; provided, that any action
27 based on malfeasance or misfeasance shall be commenced
28 within one year from discovery by the aggrieved party or
29 his agent of the facts constituting the cause or action
30 or within three years from the performance of the notarial

1 act giving rise to the action, whichever is later; and
2 provided further, that any action against a notary public
3 on his bond or in his official capacity must be commenced
4 within six years.

5 7. An action for slander of title to real property.

6 8. An action upon a contract, obligation, or
7 liability not founded upon an instrument of writing other
8 than that mentioned in subdivision 2 of Section 337 of
9 this Code; or an action founded upon a contract, obligation,
10 or liability, evidenced by a certificate or abstract or
11 guaranty of title of real property, or by a policy of
12 title insurance; provided, that the cause of action upon a
13 contract, obligation, or liability evidenced by a certi-
14 ficate, or abstract or guaranty of title of real property
15 or policy of title insurance, shall not be deemed to have
16 accrued until the aggrieved party has discovered the loss
17 or damage."

18 Section 5. Section 339 of the Code of Civil Procedure is
19 repealed and reenacted to read:

20 "Section 339. Within two years--

21 1. An action for assault, battery, false
22 imprisonment, seduction of a person below the age of
23 legal consent, or for injury to, or for the death of,
24 a person caused by the wrongful act or neglect of
25 another except as provided for in Section 349."

26 Section 6. Paragraph 3 of Section 340 of the Code of Civil
27 Procedure is amended to read:

28 "3. An action for libel or slander, or by a depositor
29 against a bank for the payment of a forged or raised check,
30 or a check that bears a forged or unauthorized endorsement."

1 Section 7. Section 349 of the Code of Civil Procedure is
2 amended to read:

3 "Section 349. Action to recover damages for injuries.

4 An action to recover damages for injuries to the person
5 arising from any medical, surgical or dental treatment,
6 omission or operation shall be commenced with one (1)
7 year from the date when the injury is first discovered;
8 provided, that such action shall be commenced within three
9 (3) years from the date of treatment, omission or operation
10 upon which the action is based."

11 Section 8. No action or defense to an action which is
12 pending upon the effective date of this Act shall be impaired
13 by this Act. Any action pending upon the effective date of this
14 Act shall be continued under the provisions of law that existed
15 prior to the effective date of this Act.

16 Section 9. This Act shall take effect immediately but it
17 shall operate prospectively only.

18 Section 10. If any part of this Act is declared unconsti-
19 tutional or contrary to the Organic Act of Guam by a court of
20 competent jurisdiction, that decision shall not affect any
21 portion of the Act which remains, but the remainder shall be in
22 full force and effect as if the portion declared unconstitutional
23 or contrary to the Organic Act had never been a part of the Act.

15TH GUAM LEGISLATURE

VOTING RECORD

BILL/RESOLUTION NO.

421, as amended

MAIN SPONSOR
NOT
VOTING

P. F. Pay

SENATOR	AYE	NAY	MAIN SPONSOR NOT VOTING	ABSENT
AGUON, Katherine B.	Resigned			
BAMBA, Cecilia C.				
BLAS, Frank F.	✓			
CHARFAUROS, Edward T.	✓			
CRISOSTOMO, Thomas C.	✓			
DUENAS, Edward R.	✓			
ESPALDON, Ernesto M.	✓			
KASPERBAUER, Carmen A.	✓			
LAMORENA, Alberto C., III	✓			
PALOMO, Antonio M.	✓			
PALOMO, Benigno M.		✓		
PEREZ, Peter, Jr.	✓			
QUAN, John F.	✓			
QUITUGUA, Franklin J.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SUDO, Ramon Q.	✓			
TAITANO, Richard F.	excused absence			
TANAKA, Thomas V. C.	✓			
UNDERWOOD, James H.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

18

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