

HOUSE BILL 406

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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AN ACT

RELATING TO COURTS; ALLOWING CERTAIN CASES TO BE REVIVED IF
DISMISSED FOR LACK OF PROSECUTION OR DELAY IN SERVICE OF
PROCESS DUE TO THE CORONAVIRUS DISEASE 2019 PANDEMIC.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 37-1-16 NMSA 1978 (being Laws 1880,
Chapter 5, Section 13, as amended) is amended to read:

"37-1-16. REVIVAL OF CAUSES OF ACTION.--

A. Causes of action founded upon contract shall be
revived by the making of any partial or installment payment
~~[thereon]~~ on the contract or by an admission that the debt is
unpaid, as well as by a new promise to pay the ~~[same]~~ debt; but
~~[such]~~ the admission or new promise ~~[must]~~ shall be in writing,
signed by the party to be charged ~~[therewith]~~ with the debt.

Such a cause of action shall be deemed to have accrued upon the

underscored material = new
[bracketed material] = delete

1 date of ~~[such]~~ the partial or installment payment, admission of
2 indebtedness or promise to pay; provided that no admission that
3 the debt is unpaid or new promise to pay the ~~[same]~~ debt shall
4 be effective to extend the lien of any mortgage upon real
5 estate or any interest therein given to secure the original
6 indebtedness, unless the payment is accompanied by an admission
7 or promise and unless ~~[such]~~ the admission that the debt is
8 unpaid or new promise to pay the ~~[same]~~ debt, signed by the
9 party to be charged ~~[therewith]~~ with the debt and acknowledged
10 by ~~[such]~~ that party in the form prescribed by law for the
11 acknowledgments of instruments affecting real estate, shall be
12 filed for record in the office of the county clerk where ~~[said]~~
13 the original mortgage is of record, prior to the date when any
14 action to foreclose ~~[said]~~ the mortgage lien would otherwise be
15 barred under existing law ~~[and provided further, that the~~
16 ~~foregoing proviso shall not be applicable to any recorded~~
17 ~~mortgage upon real estate or any interest therein until after~~
18 ~~three months from the effective date of this act].~~

19 B. Every civil claim or cause of action brought
20 against any party in any district court in New Mexico that is
21 barred following a dismissal, including an action that is the
22 subject of a request for reconsideration or an appeal, for lack
23 of prosecution or delay in service of process and in which the
24 dismissal occurred after March 11, 2020, is hereby revived, and
25 action thereon may be refiled by December 31, 2023. Any action

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1 revived pursuant to this subsection shall not be dismissed for
2 lack of prosecution, delay in service of process or as a result
3 of a claim that the revived action is time barred. Nothing in
4 this subsection shall limit the dismissal of any revived action
5 as a result of a lack of prosecution or a delay in service of
6 process if the grounds for dismissal occur after December 31,
7 2023."

8 SECTION 2. EFFECTIVE DATE.--The effective date of the
9 provisions of this act is July 1, 2023.

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