

*Colorado Legislative Council Staff Fiscal Note*

**STATE and LOCAL  
FISCAL IMPACT**

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<b>Drafting Number:</b> LLS 15-0931	<b>Date:</b> March 13, 2015
<b>Prime Sponsor(s):</b> Rep. Esgar Sen. Holbert	<b>Bill Status:</b> House Judiciary
	<b>Fiscal Analyst:</b> Alex Schatz (303-866-4375)

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**BILL TOPIC:** TIMELY FILED CLAIMS NOT BARRED BY LACHES

<b>Fiscal Impact Summary*</b>	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
<b>State Revenue</b>		
<b>State Expenditures</b>	Minimal workload increase. See State Expenditures section.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		

\* This summary shows changes from current law under the bill for each fiscal year.

**Summary of Legislation**

This bill prohibits courts from applying the doctrine of laches in certain judicial cases. Under the bill, a court may not rule that a plaintiff in a civil action unreasonably delayed filing his or her complaint if it was filed within the time allowed by the applicable statute of limitations.

**Background**

Laches is an equitable defense available according to common law. Courts invoke the doctrine of laches in cases where there has been an unreasonable delay in the filing of a claim. Laches is established based on the court's factual inquiry, and is generally held to apply in cases brought years after the development of relevant facts. The timing of most civil cases in Colorado is governed by 1-, 2-, 3-, and 6-year statutes of limitations. It is unusual, but not unprecedented, for the elements of laches to exist within the time period before a statute of limitations bars a claim.

In January 2014, the Colorado Supreme Court released its opinion in *Hickerson v. Vessels*. According to this holding, there are cases where it may be inexcusable for a plaintiff to wait to bring a claim, and thus the doctrine of laches applies, even if the plaintiff files the claim within the period of time allowed by the statute of limitations for the relevant type of case. For example, in the *Hickerson* case, the trial court ruled that an action on a promissory note was technically filed within the six-year period provided for recovery under a debt instrument by Colorado statute, but the claim was nonetheless barred because the defendant established the legal grounds for laches.

The trial court in *Hickerson* noted that it was unaware of any prior Colorado case in which the equitable doctrine of laches had defeated a claim otherwise allowed by the applicable statute of limitations. However, the Colorado Supreme Court cited an 1890 case as precedent and noted that the General Assembly has not acted since that time to eliminate or limit this common law defense.

**State Expenditures**

This bill overrules *Hickerson v. Vessels* and allows some civil actions to proceed that would otherwise be barred by the doctrine of laches. Based on the language of the bill, it is assumed that affected cases include facts controlled by the *Hickerson* case.

Due to a small number of affected cases, a minimal number of new claims are allowed by the bill. In addition, prior to the Supreme Court's 2014 holding in *Hickerson*, similar cases were litigated under Colorado law and thus accounted for in court appropriations. For these reasons, the bill results in a minimal increase in the future workload of trial courts in the Judicial Department. No new appropriations are required.

**Local Government Impact**

The bill modifies the availability of laches in any municipal case governed by the *Hickerson* holding, as well as cases filed in Denver County Court. Similar to state trial courts, after accounting for the small number of affected cases and the short span of time since the *Hickerson* opinion was issued in 2014, the anticipated effect of the bill is a minimal workload increase for municipal courts and the Denver County Court.

**Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to civil actions and claims filed on or after the effective date.

**State and Local Government Contacts**

Judicial Department  
Personnel and Administration  
Public Safety

Counties  
Local Affairs  
District Attorneys

Law  
Municipalities