

304.39-230 Limitations of actions.

- (1) If no basic or added reparation benefits have been paid for loss arising otherwise than from death, an action therefor may be commenced not later than two (2) years after the injured person suffers the loss and either knows, or in the exercise of reasonable diligence should know, that the loss was caused by the accident, or not later than four (4) years after the accident, whichever is earlier. If basic or added reparation benefits have been paid for loss arising otherwise than from death, an action for further benefits, other than survivor's benefits, by either the same or another claimant, may be commenced not later than two (2) years after the last payment of benefits.
- (2) If no basic or added reparation benefits have been paid to the decedent or his or her survivors, an action for survivor's benefits may be commenced not later than one (1) year after the death or four (4) years after the accident from which death results, whichever is earlier. If survivor's benefits have been paid to any survivor, an action for further survivor's benefits by either the same or another claimant may be commenced not later than two (2) years after the last payment of benefits. If basic or added reparation benefits have been paid for loss suffered by an injured person before his or her death resulting from the injury, an action for survivor's benefits may be commenced not later than one (1) year after the death or four (4) years after the last payment of benefits, whichever is earlier.
- (3) If timely action for basic reparation benefits is commenced against a reparation obligor and benefits are denied because of a determination that the reparation obligor's coverage is not applicable to the claimant under the provisions on priority of applicability of basic reparation security, an action against the applicable reparation obligor or the assigned claims bureau may be commenced not later than sixty (60) days after the determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.
- (4) Except as subsections (1), (2), or (3) of this section prescribe a longer period, an action by a claimant on an assigned claim which has been timely presented may be commenced not later than sixty (60) days after the claimant received written notice of rejection of the claim by the reparation obligor to which it was assigned.
- (5) If a person entitled to basic or added reparation benefits is under legal disability when the right to bring an action for the benefits first accrues, the period of his or her disability is a part of the time limited for commencement of the action.
- (6) An action for tort liability not abolished by KRS 304.39-060 may be commenced not later than two (2) years after the injury, or the death, or the date of issuance of the last basic or added reparation payment made by any reparation obligor, whichever later occurs. For the purposes of determining the date of issuance of the last basic or added reparation payment made by a reparation obligor, a replacement payment does not extend the date beyond the date of the original payment. For the purposes of this section, "replacement payment" means a payment in the same amount as the original payment, but which is issued as a replacement for the original payment for reasons including

but not limited to the original payment being lost, stolen, or not delivered. A reparation obligor shall provide to a claimant or the claimant's attorney upon written request information on whether any payment is a replacement payment.

Effective: June 29, 2017

History: Amended 2017 Ky. Acts ch. 34, sec. 4, effective June 29, 2017. -- Created 1974 Ky. Acts ch. 385, sec. 23, effective July 1, 1975.