

# Robert J. DeBry



A S S O C I A T E S

June 11, 2020

*Via Email*

Senator Iwamoto

RE: Tolling Amendments

Dear Senator Iwamoto:

I hope things are going well with you and your family through this difficult time.

I sincerely appreciate your willingness and foresight to draft the tolling amendments. I think the concept is a very good one.

The language of the bill obviously applies to civil and criminal statute of limitations that would otherwise expire during the duration of a declared state of emergency. We were hopeful the bill could be amended to include the one-year limitation on Utahns filing a notice of claim with a governmental entity. The new language might then read:

Section 53-2a-1402(1) except as provided in subsection (2), a statute of limitations, a repose for a criminal or civil action, or the obligations to file a notice of claim as described in 63G-7-401 does not run for the duration of a declared state of emergency.

Another thought we had was rather than using the language “does not run,” perhaps use the language “does not expire.”

We believe the tolling provision is important during a declared state of emergency for several reasons:

1. There may well be times when courts and the court filing systems are not operable and there may be some impossibilities towards getting a complaint or notice of claim properly filed in a timely manner;
2. Similarly, a governmental notice of claim must be either personally delivered or sent by mail. One of our members had an experience where he tried to serve a governmental entity and found the offices closed. He could not personally serve the same and he could not get anyone to accept

a letter, which would prove he had placed a letter in the United States mail (certified receipt was not forthcoming);

3. A significant action needed by a claimant or a claimant's lawyer in drafting a lawsuit or preparing a notice of claim before the deadline can become fairly impossible, if the law offices are not up and running or investigations cannot be completed.

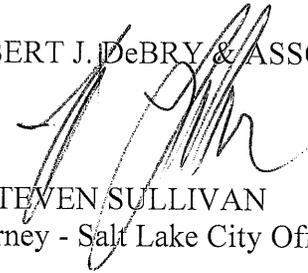
Hopefully, your tolling provisions will not need to be used – we will not go through something like the recent pandemic again in the future. However, we certainly believe the law should be flexible in handling any future pandemics or other situations resulting in a state of emergency.

I can certainly be available Monday morning, if that would provide any help or assistance.

Again, I sincerely appreciate your help in this matter.

Very truly yours,

ROBERT J. DeBRY & ASSOCIATES



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