

## **Part 1**

### **General Provisions and Special Actions**

#### **78B-2-101 Definitions of "tax title" and "action."**

- (1) The word "action" as used in this chapter includes counterclaims and cross-complaints and all other civil actions in which affirmative relief is sought.
- (2) The term "tax title" as used in Sections 59-2-1364 and 78B-2-206, and the related amended Sections 78B-2-204, 78B-2-208, and 78B-2-214, means any title to real property, whether valid or not, which has been derived through, or is dependent upon, any sale, conveyance, or transfer of property in the course of a statutory proceeding for the liquidation of any tax levied against the property whereby the property is relieved from a tax lien.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78B-2-102 Time for commencement of actions generally.**

Civil actions may be commenced only within the periods prescribed in this chapter, after the cause of action has accrued, except in specific cases where a different limitation is prescribed by statute.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78B-2-103 Action barred in another state barred in Utah.**

A cause of action which arises in another jurisdiction, and which is not actionable in the other jurisdiction by reason of the lapse of time, may not be pursued in this state, unless the cause of action is held by a citizen of this state who has held the cause of action from the time it accrued.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78B-2-104 Effect of absence from state.**

If a cause of action accrues against a person while the person is out of the state and the person is not subject to the jurisdiction of the courts of this state in accordance with Section 78B-3-205, the action may be commenced within the term as limited by this chapter after his return to the state. If after a cause of action accrues the person departs from the state, the time of his absence is not part of the time limited for the commencement of the action unless Section 78B-3-205 applies.

Amended by Chapter 342, 2009 General Session

#### **78B-2-105 Effect of death.**

- (1) If a person entitled to bring an action dies before the expiration of the statute of limitations and the cause of action survives, an action may be brought by his representatives after the expiration of the time and within one year from his death.
- (2) If a person against whom an action may be brought dies before the expiration of the statute of limitations and the cause of action survives, an action may be commenced against the representatives after the expiration of the time and within one year after the issue of letters testamentary or of administration.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-106 Effect of death of defendant outside this state.**

If a person against whom a cause of action exists dies outside the state, the time which elapses between his death and the expiration of one year after this state issues letters testamentary or letters of administration is not a part of the time limited for the commencement of an action against his executor or administrator.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-107 Effect of war.**

When a person is an alien subject or a citizen of a country at war with the United States, the duration of the war may not be counted as part of the statute of limitations for the commencement of the action.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-108 Effect of disability -- Minority or mental incompetence.**

A person may not bring an action while under the age of majority or mentally incompetent without a legal guardian. During the time the person is underage or incompetent, the statute of limitations for a cause of action other than for the recovery of real property may not run.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-109 Disability must exist when right of action accrues.**

A person may not take advantage of a disability, unless it existed when the person's right of action accrued.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-110 All disabilities must be removed.**

When two or more disabilities coexist at the time the right of action accrues, the limitation does not attach until all are removed.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-111 Failure of action -- Right to commence new action.**

- (1) If any action is timely filed and the judgment for the plaintiff is reversed, or if the plaintiff fails in the action or upon a cause of action otherwise than upon the merits, and the time limited either by law or contract for commencing the action has expired, the plaintiff, or if he dies and the cause of action survives, his representatives, may commence a new action within one year after the reversal or failure.
- (2) On and after December 31, 2007, a new action may be commenced under this section only once.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-112 Effect of injunction or prohibition.**

The duration of an injunction or statutory prohibition which delays the filing of an action may not be counted as part of the statute of limitations.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-113 Effect of payment, acknowledgment, or promise to pay.**

- (1) An action for recovery of a debt may be brought within the applicable statute of limitations from the date:
  - (a) the debt arose;
  - (b) a written acknowledgment of the debt or a promise to pay is made by the debtor; or
  - (c) a payment is made on the debt by the debtor.
- (2) If a right of action is barred by the provisions of any statute, it shall be unavailable either as a cause of action or ground for defense.

Renumbered and Amended by Chapter 3, 2008 General Session  
Amended by Chapter 123, 2008 General Session

**78B-2-114 Separate trial of statute of limitations issue in malpractice actions.**

- (1) An issue raised by the defense regarding the statute of limitations in a case may be tried separately if the action is for professional negligence or for rendering professional services without consent, and against:
  - (a) a physician;
  - (b) a surgeon;
  - (c) a dentist;
  - (d) an osteopathic physician;
  - (e) a chiropractor;
  - (f) a physical therapist;
  - (g) a registered nurse;
  - (h) a clinical laboratory bioanalyst;
  - (i) a clinical laboratory technologist; or
  - (j) a licensed hospital, person, firm, or corporation as the employer of any of the persons in Subsection (1)(a) through (i).
- (2) The issue raised may be tried before any other issues in the case are tried. If the issue raised by the defense of the statute of limitations is finally determined in favor of the plaintiff, the remaining issues shall then be tried.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-115 Actions by state or other governmental entity.**

Except for the provisions of Section 78B-2-116, and the collection of criminal fines, fees, and restitution by the Office of State Debt Collection in accordance with Sections 63A-3-502 and 76-3-201.1, the limitations in this chapter apply to actions brought in the name of or for the benefit of the state or other governmental entity the same as to actions by private parties.

Amended by Chapter 434, 2015 General Session

**78B-2-116 Statute of limitations -- Asbestos damages -- Action by state or governmental entity.**

- (1)
  - (a) A statute of limitations or repose may not bar an action by the state or other governmental entity to recover damages from any manufacturer of any construction materials containing asbestos, when the action arises out of the manufacturer's providing the materials, directly or through other persons, to the state or other governmental entity or to a contractor on behalf of the state or other governmental entity.
  - (b) Subsection (1)(a) provides for actions not yet barred, and also acts retroactively to permit actions under this section that are otherwise barred.
- (2) As used in this section, "asbestos" means asbestiform varieties of:
  - (a) chrysotile (serpentine);
  - (b) crocidolite (riebeckite);
  - (c) amosite (cummingtonite-grunerite);
  - (d) anthophyllite;
  - (e) tremolite; or
  - (f) actinolite.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-117 Statute of limitations -- Asbestos damages.**

- (1)
  - (a) Notwithstanding any other provision of law, a statute of limitation or repose may not bar an action to recover damages from any manufacturer of any construction materials containing asbestos and arising out of the manufacturer's providing of the materials, directly or through other persons, for use in construction of any building within the state until July 1, 1991, or until three years after the person or entity bringing the action discovers or with reasonable diligence could have discovered the injury or damages, whichever is later.
  - (b) Subsection (1)(a) provides a statute of limitation for the specified actions, and also acts retroactively to permit, within time limits, the commencement of actions under this section that are otherwise barred.
- (2) As used in this section, "asbestos" means asbestiform varieties of:
  - (a) chrysotile (serpentine);
  - (b) crocidolite (riebeckite);
  - (c) amosite (cummingtonite-grunerite);
  - (d) anthophyllite;
  - (e) tremolite; or
  - (f) actinolite.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-118 Actions against the United States.**

Actions against the federal government regarding real property and that are subject to the federal Quiet Title Act, 28 U.S.C. Sec. 2409a, do not expire under this chapter.

Enacted by Chapter 90, 2015 General Session