

### **Part 3 Other than Real Property**

#### **78B-2-301 Within six months.**

An action may be brought within six months against a tax collector or the tax collector's designee:

- (1) to recover any goods, wares, merchandise, other property seized in his official capacity, or the price or value of any of it;
- (2) for damages for the seizure, detention, sale of, or injury to, any goods, wares, merchandise, or other personal property seized;
- (3) for damages done to any person or property in making a seizure;
- (4) for money paid or seized under protest and which, it is claimed, ought to be refunded.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78B-2-302 Within one year.**

An action may be brought within one year:

- (1) for liability created by the statutes of a foreign state;
- (2) upon a statute for a penalty or forfeiture where the action is given to an individual, or to an individual and the state, except when the statute imposing it prescribes a different limitation;
- (3) except as provided in Section 78B-2-307.5, upon a statute, or upon an undertaking in a criminal action, for a forfeiture or penalty to the state;
- (4) for libel, slander, false imprisonment, or seduction;
- (5) against a sheriff or other officer for the escape of a prisoner arrested or imprisoned upon either civil or criminal process;
- (6) against a municipal corporation for damages or injuries to property caused by a mob or riot;
- (7) except as otherwise expressly provided by statute, against a county legislative body or a county executive to challenge a decision of the county legislative body or county executive, respectively;
- (8) on a claim for relief or a cause of action under Title 63L, Chapter 5, Utah Religious Land Use Act; or
- (9) for a claim for relief or a cause of action under Subsection 25-6-203(2).

Amended by Chapter 204, 2017 General Session

#### **78B-2-303 One year -- Actions on claims against county, city, or town.**

Actions on claims against a county, city, or incorporated town, which have been rejected by the county executive, city commissioners, city council, or board of trustees shall be brought within one year after the first rejection.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78B-2-304 Within two years.**

An action may be brought within two years:

- (1) against a marshal, sheriff, constable, or other officer for liability incurred during the performance of the officer's official duties or by the omission of an official duty, including the nonpayment of money collected upon an execution;

- (2) for recovery of damages for a death caused by the wrongful act or neglect of another;
- (3) in causes of action against the state and its employees, for injury to the personal rights of another if not otherwise provided by state or federal law; or
- (4) in causes of action against a political subdivision of the state and its employees, for injury to the personal rights of another arising after May 1, 2000, if not otherwise provided by state or federal law.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-305 Within three years.**

An action may be brought within three years:

- (1) for waste, trespass upon, or injury to real property; except that when waste or trespass is committed by means of underground works upon any mining claim, the cause of action does not accrue until the discovery by the aggrieved party of the facts constituting the waste or trespass;
- (2) for taking, detaining, or injuring personal property, including actions for specific recovery; except that in cases where the subject of the action is a domestic animal usually included in the term "livestock," which at the time of its loss has a recorded mark or brand, if the animal strayed or was stolen from the true owner without the owner's fault, the cause does not accrue until the owner has actual knowledge of facts that would put a reasonable person upon inquiry as to the possession of the animal by the defendant;
- (3) for relief on the ground of fraud or mistake; except that the cause of action does not accrue until the discovery by the aggrieved party of the facts constituting the fraud or mistake;
- (4) for a liability created by the statutes of this state, other than for a penalty or forfeiture under the laws of this state, except where in special cases a different limitation is prescribed by the statutes of this state; or
- (5) to enforce liability imposed by Section 78B-3-603, or for damages under Section 78B-6-1701, except that the cause of action does not accrue until the aggrieved party knows or reasonably should know of the harm suffered.

Amended by Chapter 143, 2010 General Session

**78B-2-306 Action against corporate stockholders or directors.**

Actions against directors or stockholders of a corporation to recover a penalty or forfeiture imposed, or to enforce a liability created shall be brought within three years after the discovery by the aggrieved party of the facts upon which the penalty or forfeiture attached, or the liability accrued. Actions against stockholders of a bank pursuant to levy of assessment to collect their statutory liability must be brought within three years after the levy of the assessment.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-307 Within four years.**

An action may be brought within four years:

- (1) after the last charge is made or the last payment is received:
  - (a) upon a contract, obligation, or liability not founded upon an instrument in writing;
  - (b) on an open store account for any goods, wares, or merchandise; or
  - (c) on an open account for work, labor or services rendered, or materials furnished;

- (2) for a claim for relief or a cause of action under the following sections of Title 25, Chapter 6, Uniform Voidable Transactions Act:
- (a) Subsection 25-6-202(1)(a), except in specific situations where the time for action is limited to one year under Section 25-6-305;
  - (b) Subsection 25-6-202(1)(b); or
  - (c) Subsection 25-6-203(1); and
- (3) for relief not otherwise provided for by law.

Amended by Chapter 204, 2017 General Session

**78B-2-307.5 Within two years.**

An action may be brought within two years upon a statute in Title 19, Environmental Quality Code, for a forfeiture or penalty to the state, if the violation occurred on or after May 10, 2016.

Enacted by Chapter 388, 2016 General Session

**78B-2-308 Legislative findings -- Civil actions for sexual abuse of a child -- Window for revival of time barred claims.**

- (1) The Legislature finds that:
- (a) child sexual abuse is a crime that hurts the most vulnerable in our society and destroys lives;
  - (b) research over the last 30 years has shown that it takes decades for children and adults to pull their lives back together and find the strength to face what happened to them;
  - (c) often the abuse is compounded by the fact that the perpetrator is a member of the victim's family and when such abuse comes out, the victim is further stymied by the family's wish to avoid public embarrassment;
  - (d) even when the abuse is not committed by a family member, the perpetrator is rarely a stranger and, if in a position of authority, often brings pressure to bear on the victim to ensure silence;
  - (e) in 1992, when the Legislature enacted the statute of limitations requiring victims to sue within four years of majority, society did not understand the long-lasting effects of abuse on the victim and that it takes decades for the healing necessary for a victim to seek redress;
  - (f) the Legislature, as the policy-maker for the state, may take into consideration advances in medical science and understanding in revisiting policies and laws shown to be harmful to the citizens of this state rather than beneficial; and
  - (g) the Legislature has the authority to change old laws in the face of new information, and set new policies within the limits of due process, fairness, and justice.
- (2) As used in this section:
- (a) "Child" means an individual under 18 years of age.
  - (b) "Discovery" means when a victim knows or reasonably should know that the injury or illness was caused by the intentional or negligent sexual abuse.
  - (c) "Injury or illness" means either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.
  - (d) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.
  - (e) "Negligently" means a failure to act to prevent the child sexual abuse from further occurring or to report the child sexual abuse to law enforcement when the adult who could act knows or reasonably should know of the child sexual abuse and is the victim's parent, stepparent,

adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, stepgrandparent, or any individual cohabiting in the child's home.

- (f) "Perpetrator" means an individual who has committed an act of sexual abuse.
  - (g) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or molestation by an adult directed towards a child.
  - (h) "Victim" means an individual who was intentionally or negligently sexually abused. It does not include individuals whose claims are derived through another individual who was sexually abused.
- (3)
- (a) A victim may file a civil action against a perpetrator for intentional or negligent sexual abuse suffered as a child at any time.
  - (b) A victim may file a civil action against a non-perpetrator for intentional or negligent sexual abuse suffered as a child:
    - (i) within four years after the individual attains the age of 18 years; or
    - (ii) if a victim discovers sexual abuse only after attaining the age of 18 years, that individual may bring a civil action for such sexual abuse within four years after discovery of the sexual abuse, whichever period expires later.
  - (4) The victim need not establish which act in a series of continuing sexual abuse incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse.
  - (5) The knowledge of a custodial parent or guardian may not be imputed to an individual under the age of 18 years.
  - (6) A civil action may be brought only against a living individual who:
    - (a) intentionally perpetrated the sexual abuse;
    - (b) would be criminally responsible for the sexual abuse in accordance with Section 76-2-202; or
    - (c) negligently permitted the sexual abuse to occur.
  - (7) A civil action against an individual described in Subsection (6)(a) or (b) for sexual abuse that was time barred as of July 1, 2016, may be brought within 35 years of the victim's 18th birthday, or within three years of the effective date of this Subsection (7), whichever is longer.
  - (8) A civil action may not be brought as provided in Subsection (7) for:
    - (a) any claim that has been litigated to finality on the merits in a court of competent jurisdiction prior to July 1, 2016, however termination of a prior civil action on the basis of the expiration of the statute of limitations does not constitute a claim that has been litigated to finality on the merits; and
    - (b) any claim where a written settlement agreement was entered into between a victim and a defendant or perpetrator, unless the settlement agreement was the result of fraud, duress, or unconscionability. There is a rebuttable presumption that a settlement agreement signed by the victim when the victim was not represented by an attorney admitted to practice law in this state at the time of the settlement was the result of fraud, duress, or unconscionability.

Amended by Chapter 192, 2018 General Session

**78B-2-309 Within six years -- Mesne profits of real property -- Instrument in writing -- Fire suppression.**

- (1) An action may be brought within six years:
  - (a) for the mesne profits of real property;

- (b) subject to Subsection (2), upon any contract, obligation, or liability founded upon an instrument in writing, except those mentioned in Section 78B-2-311; or
  - (c) to recover fire suppression costs or other damages caused by wildland fire.
- (2) For a credit agreement, as defined in Section 25-5-4, the six-year period described in Subsection (1) begins the later of the day on which:
- (a) the debt arose;
  - (b) the debtor makes a written acknowledgment of the debt or a promise to pay the debt; or
  - (c) the debtor or a third party makes a payment on the debt.

Amended by Chapter 107, 2019 General Session

**78B-2-310 Actions against public officers -- Within six years.**

An action by the state, any agency, or public corporation against any public officer for malfeasance, misfeasance, or nonfeasance in office or against any surety upon his official bond may be brought within six years after the officer ceases to hold his office.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-311 Eight years.**

An action may be brought within eight years upon a judgment or decree of any court of the United States, or of any state or territory within the United States.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-312 Action on mutual account -- When considered accrued.**

In an action brought to recover a balance due upon a mutual, open, and current account, where there have been reciprocal demands between the parties, the cause of action shall be considered to have accrued from the time of the last item proved in the account on either side.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-2-313 Action to recover deficiency after short sale.**

- (1) As used in this section:
- (a) "Deficiency" means the balance owed to a secured lender under a secured loan after completion of a short sale of the secured property.
  - (b) "Obligor" means the person or persons obligated to pay a secured loan.
  - (c) "Secured lender" means the person or persons to whom the obligation under a secured loan is owed.
  - (d) "Secured loan" means a loan or other credit for personal, family, or household purposes secured by a mortgage or trust deed on secured property.
  - (e) "Secured property" means single-family, residential real property located in the state that is the subject of a mortgage or trust deed to secure a secured loan.
  - (f) "Short sale" means a sale:
    - (i) of secured property;
    - (ii) by the owner of the secured property;
    - (iii) that results in the secured lender being paid less than the balance owing under the secured loan; and

- (iv) made with the secured lender's consent and resulting in the secured lender releasing the mortgage or reconveying the trust deed on the secured property.
- (2) An action to recover a deficiency is barred unless it is commenced no more than three months after the date of recording of a release of mortgage or reconveyance of trust deed with respect to secured property and resulting from a short sale of that property.
- (3) Subsection (2) does not apply if the obligor or owner engaged in fraud in connection with the short sale.
- (4) Subsection (2) does not apply to an agreement that:
  - (a) is executed:
    - (i) between one or more obligors under a secured loan and the secured lender; and
    - (ii) in connection with a short sale; and
  - (b) obligates an obligor to pay some or all of a deficiency.

Amended by Chapter 278, 2013 General Session

**78B-2-314 Statute of limitations -- Permanent or continuing trespass -- Damages.**

In accordance with Section 78B-2-305, an action for damage created by trespass shall be brought within three years of discovery of the last trespass incident which includes a permanent or continuing trespass that caused the damage.

Enacted by Chapter 401, 2013 General Session