

Chapter 2 Statutes of Limitations

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 Section 63A-3-502 and Title 77, Chapter 32a, Criminal Accounts Receivable and Defense Costs, 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 304, 2017 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

Part 2 Real Property

78B-2-201 Actions by the state.

- (1) The state may not bring an action against any person for or with respect to any real property, its issues or profits, based upon the state's right or title to the real property, unless:
 - (a) the right or title to the property accrued within seven years before any action or other proceeding is commenced; or
 - (b) the state or those from whom it claims received all or a portion of the rents and profits from the real property within the immediately preceding seven years.
- (2) The statute of limitations in this section runs from the date on which the state or those from whom it claims received actual notice of the facts giving rise to the action.

Amended by Chapter 2, 2015 Special Session 1
Amended by Chapter 146, 2009 General Session

78B-2-202 Actions by patentees or grantees from state.

A person receiving letters patent or a grant of real property from the state may not bring an action based on the patent or grant unless the state would have been able to bring an action had the patent or grant not been made.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-203 When letters patent or grants declared void.

When letters patent or grants of real property issued or made by the state are declared void by a court of competent jurisdiction, an action for the recovery of the property shall be brought either by the state, or by any subsequent patentee or grantee of the property, his heirs or assigns, within seven years after such determination.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-204 Seizure or possession within seven years necessary.

An action for the recovery or possession of real property may not be maintained, unless it appears the plaintiff, his ancestor, grantor, or predecessor owned or possessed the property in question within seven years before the commencement of the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-205 Seizure or possession within seven years -- Proviso -- Tax title.

- (1) An action for the recovery or possession of real property may not be maintained, unless the plaintiff or his predecessor owned or possessed the property within seven years before the commencement of the action.
- (2) Actions or defenses brought to recover, take possession of, quiet title, or determine the ownership of real property against the holder of a tax title to the property, may not be commenced more than four years after the date of the tax deed, conveyance, or transfer

creating the tax title unless the person commencing the action or defense or his predecessor has actually occupied or been in possession of the property within four years prior to the commencement of the action or defense.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-206 Holder of tax title -- Limitations of action or defense -- Proviso.

An action or defense to recover, take possession of, quiet title to, or determine the ownership of real property may not be commenced against the holder of a tax title after the expiration of four years from the date of the sale, conveyance, or transfer of the tax title to any county, or directly to any other purchaser at any public or private tax sale. This section may not bar any action or defense by the owner of the legal title to the property which he or his predecessor actually occupied or possessed within four years from the commencement of an action or defense. This section may not bar any defense by a city or town to an action by the holder of a tax title, to the effect that the city or town holds a lien against the property which is equal or superior to the claim of the holder of the tax title.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-207 Actions or defenses founded upon title to real estate.

An action, defense, or counterclaim to an action based upon title to the property or entitlement to the rents or profits from the property shall be brought:

- (1) not later than seven years after the act on which it is based; and
- (2) by the ancestor, predecessor, or grantor of the person who owned or possessed the property for seven years before the act in Subsection (1) took place.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-208 Adverse possession -- Possession presumed in owner.

- (1) In an action for the recovery of real property, it is presumed that:
 - (a) the person establishing legal title to the property has been in possession of the property; and
 - (b) any occupation of the property has been under and in subordination to the legal title.
- (2) Subsection (1) may be rebutted by a showing that the property has been held and possessed adversely to the legal title for at least seven years before commencement of the action.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-209 Adverse possession -- Presumption -- Proviso -- Tax title.

- (1) In an action for the recovery or possession of real property, to quiet title to or determine the property's owner, the person establishing a legal title to the property is presumed to have been in possession of the property within the time required by law. The occupation of the property by any other person is considered to have been under and in subordination to the legal title, unless it appears that the property has been held and possessed adversely to the legal title for seven years before the commencement of the action.
- (2) If in any action a party establishes prima facie evidence of ownership of any real property under a tax title held by him and his predecessors for four years prior to the commencement of the action, he is presumed to be the owner of the property by adverse possession. This presumption may be rebutted if it appears that the owner of the legal title or his predecessor

has actually occupied or been in possession of the property under the title or that the tax title owner and his predecessors have failed to pay all the taxes levied or assessed upon the property within the four-year period.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-210 Adverse possession -- Under written instrument or judgment.

- (1) Property is considered to have been adversely held if a person in possession of the property, either personally or through another:
 - (a) possesses a written document purporting to convey title; or
 - (b) possesses a decree or judgment from a court of competent jurisdiction conveying title; and
 - (c) has occupied the property continuously for at least seven years.
- (2) If the property consists of a tract divided into lots, the possession of one lot is not considered a possession of any other lot in the same tract.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-211 What constitutes adverse possession under written instrument.

For the purpose of constituting an adverse possession by any person claiming a title based upon a written instrument or a judgment or decree, the property is considered to have been possessed if:

- (1) it has been usually cultivated or improved;
- (2) it has been protected by a substantial enclosure;
- (3) although not enclosed, it has been used for the supply of fuel, fencing timber, for the purpose of husbandry, or for pasturage or for the ordinary use of the occupant; or
- (4) where a known farm or single lot has been partly improved, the portion of the farm or lot which may have been left not cleared or not inclosed according to the usual course and custom of the adjoining county is considered to have been occupied for the same length of time as the part improved and cultivated.

Amended by Chapter 146, 2009 General Session

78B-2-212 Adverse possession -- Under claim not founded on written instrument or judgment.

Where it appears that there has been an actual continued occupation of land under claim of title, exclusive of any other right, but not founded upon a written instrument, judgment or decree, the land actually occupied and no other, is considered to have been held adversely.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-213 What constitutes adverse possession not under written instrument.

Land is considered to be possessed and occupied adversely by a person claiming title not founded upon a written instrument, judgment, or decree in the following cases only, where:

- (1) it has been protected by a substantial enclosure;
- (2) it has been usually cultivated or improved; or
- (3) labor or money amounting to the sum of \$5 per acre has been expended upon dams, canals, embankments, aqueducts, or otherwise for the purpose of irrigating the land.

Amended by Chapter 33, 2016 General Session

78B-2-214 Adverse possession -- Continuous -- Seven years -- Taxes paid.

Adverse possession may not be established unless it is shown that the land has been occupied and claimed continuously for seven years, and that the party and the party's predecessors and grantors have paid all taxes which have been levied and assessed upon the land according to law.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-215 Adverse possession -- Payment of taxes -- Proviso -- Tax title.

Payment of all the taxes levied and assessed upon the real property for a period of not less than four years by the holder of a tax title to the real property or his predecessors is sufficient to satisfy the requirements of this chapter regarding the payment of taxes necessary to establish adverse possession.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-216 Adverse possession of certain real property.

(1) As used in this section:

- (a) "Government entity" means a town, city, county, metropolitan water district, or local district.
- (b) "Water facility" means any improvement or structure used, or intended to be used, to divert, convey, store, measure, or treat water.

(2) Except as provided in Subsection (3), a person may not acquire by adverse possession, prescriptive use, or acquiescence any right in or title to any real property:

- (a) held by a government entity; and
- (b) designated for any present or future public use, including:
 - (i) a street;
 - (ii) a lane;
 - (iii) an avenue;
 - (iv) an alley;
 - (v) a park;
 - (vi) a public square;
 - (vii) a water facility; or
 - (viii) a water conveyance right-of-way or water conveyance corridor.

(3) Notwithstanding Subsection (2) and subject to Subsection (4), a person may acquire title if:

- (a) a government entity sold, disposed of, or conveyed the right in, or title to, the real property to a purchaser for valuable consideration; and
- (b) the purchaser or the purchaser's grantees or successors in interest have been in exclusive, continuous, and adverse possession of the real property for at least seven consecutive years after the day on which the real property was sold, disposed of, or conveyed as described in Subsection (3)(a).

(4) A person who acquires title under Subsection (3) is subject to all other applicable provisions of law.

Amended by Chapter 377, 2014 General Session

78B-2-217 Adverse possession -- Possession of tenant considered possession of landlord.

When a landlord and tenant relationship exists between persons, the possession of the tenant is considered the possession of the landlord until the expiration of seven years after the termination of the tenancy, or, if there has been no written lease, until seven years from the time of the last payment of rent.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-218 Adverse possession -- Possession not affected by descent cast.

The right of a person to the possession of real property is not impaired or affected by a descent cast in consequence of the death of a person in possession of the property.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-219 Adverse possession -- Action to redeem mortgage of real property.

An action to redeem a mortgage of real property, with or without an account of rents and profits, may not be brought by the mortgagor, or those claiming under him, against the mortgagee in possession, or those claiming under him, unless an adverse possession of the mortgaged premises for seven years after breach of some condition of the mortgage has been continuously maintained by the mortgagor or those claiming under him.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-220 Redemption when more than one mortgagor.

If there is more than one mortgagor, or more than one person claiming under a mortgagor, some of whom are not entitled to maintain an action under the provisions of this article, any one of them who is entitled to maintain an action may redeem a divided or undivided part of the mortgaged premises as his interest may appear, and have an accounting for a part of the rents and profits proportionate to his interest in the mortgaged premises, on payment of a part of the mortgage money, bearing the same proportion to the whole of the money as the value of his divided or undivided interest in the premises bears to the whole of the premises.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-221 Actions to recover estate sold by guardian.

An action for the recovery of an estate sold by a guardian shall be brought by the ward, or any person claiming under the ward, within three years after the termination of the guardianship.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-222 Actions to recover estate sold by executor or administrator.

An action for the recovery of an estate sold by an executor or administrator in the course of a probate proceeding shall be maintained by an heir or other person claiming under the decedent within three years after the sale. An action to set aside the sale shall be instituted and maintained within three years from the discovery of the fraud or other lawful grounds upon which the action is based.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-223 Minority or disability prevents running of period.

Sections 78B-2-221 and 78B-2-222 shall not apply to minors or others under any legal disability to sue at the time when the right of action first accrues. Section 78B-2-224 shall apply in those circumstances.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-224 Disabilities -- Time tolled.

A statute of limitations may not be applied to a person's ability to bring an action during a period in which the person is:

- (1) a minor; or
- (2) mentally incompetent.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-225 Actions related to improvements in real property.

(1) As used in this section:

- (a) "Abandonment" means that there has been no design or construction activity on the improvement for a continuous period of one year.
- (b) "Action" means any claim for judicial, arbitral, or administrative relief for acts, errors, omissions, or breach of duty arising out of or related to the design, construction, or installation of an improvement, whether based in tort, contract, warranty, strict liability, indemnity, contribution, or other source of law.
- (c) "Completion of improvement" means the date of substantial completion of an improvement to real property as established by the earliest of:
 - (i) a Certificate of Substantial Completion;
 - (ii) a Certificate of Occupancy issued by a governing agency; or
 - (iii) the date of first use or possession of the improvement.
- (d) "Improvement" means any building, structure, infrastructure, road, utility, or other similar man-made change, addition, modification, or alteration to real property.
- (e) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, proprietorship, or any other legal or governmental entity.
- (f) "Provider" means any person contributing to, providing, or performing studies, plans, specifications, drawings, designs, value engineering, cost or quantity estimates, surveys, staking, construction, and the review, observation, administration, management, supervision, inspections, and tests of construction for or in relation to an improvement.

(2) The Legislature finds that:

- (a) exposing a provider to suits and liability for acts, errors, omissions, or breach of duty after the possibility of injury or damage has become highly remote and unexpectedly creates costs and hardships to the provider and the citizens of the state;
- (b) these costs and hardships include liability insurance costs, records storage costs, undue and unlimited liability risks during the life of both a provider and an improvement, and difficulties in defending against claims many years after completion of an improvement;
- (c) these costs and hardships constitute clear social and economic evils;
- (d) the possibility of injury and damage becomes highly remote and unexpected seven years following completion or abandonment; and
- (e) except as provided in Subsection (7), it is in the best interests of the citizens of the state to impose the periods of limitation and repose provided in this chapter upon all causes of action

by or against a provider arising out of or related to the design, construction, or installation of an improvement.

- (3)
 - (a) An action by or against a provider based in contract or warranty shall be commenced within six years of the date of completion of the improvement or abandonment of construction. Where an express contract or warranty establishes a different period of limitations, the action shall be initiated within that limitations period.
 - (b) All other actions by or against a provider shall be commenced within two years from the earlier of the date of discovery of a cause of action or the date upon which a cause of action should have been discovered through reasonable diligence. If the cause of action is discovered or discoverable before completion of the improvement or abandonment of construction, the two-year period begins to run upon completion or abandonment.
- (4) Notwithstanding Subsection (3)(b), an action may not be commenced against a provider more than nine years after completion of the improvement or abandonment of construction. In the event the cause of action is discovered or discoverable in the eighth or ninth year of the nine-year period, the injured person shall have two additional years from that date to commence an action.
- (5) Subsection (4) does not apply to an action against a provider:
 - (a) who has fraudulently concealed his act, error, omission, or breach of duty, or the injury, damage, or other loss caused by his act, error, omission, or breach of duty; or
 - (b) for a willful or intentional act, error, omission, or breach of duty.
- (6) If a person otherwise entitled to bring an action did not commence the action within the periods prescribed by Subsections (3) and (4) solely because that person was a minor or mentally incompetent and without a legal guardian, that person shall have two years from the date the disability is removed to commence the action.
- (7) This section shall not apply to an action for the death of or bodily injury to an individual while engaged in the design, installation, or construction of an improvement.
- (8) The time limitation imposed by this section does not apply to any action against any person in actual possession or control of the improvement as owner, tenant, or otherwise, at the time any defective or unsafe condition of the improvement proximately causes the injury for which the action is brought.
- (9) This section does not extend the period of limitation or repose otherwise prescribed by law or a valid and enforceable contract.
- (10) This section does not create or modify any claim or cause of action.
- (11) This section applies to all causes of action that accrue after May 3, 2003, notwithstanding that the improvement was completed or abandoned before May 3, 2004.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-2-226 Boundary surveys.

An action against a surveyor for acts, errors, or omissions in the performance of a boundary survey filed pursuant to Section 17-23-17 shall be brought within five years of the date of the filing.

Renumbered and Amended by Chapter 3, 2008 General Session

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.

An action may be brought within six years:

- (1) for the mesne profits of real property;
- (2) upon any contract, obligation, or liability founded upon an instrument in writing, except those mentioned in Section 78B-2-311; and
- (3) to recover fire suppression costs or other damages caused by wildland fire.

Renumbered and Amended by Chapter 3, 2008 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