

CHAPTER 541

LIMITATION OF TIME FOR COMMENCING ACTIONS

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**541.01 LIMITATION; BAR APPLIES TO STATE; EXCEPTIONS.** Actions can only be commenced within the periods prescribed in this chapter, after the cause of action accrues, except where in special cases a different limitation is prescribed by statute.

Such limitation shall apply to actions by or in behalf of the state and the several political subdivisions thereof; provided that no occupant of a public way, levee, square, or other ground dedicated or appropriated to public use shall acquire, by reason of his occupancy, any title thereto.

[R. L. ss. 4071, 4072] (9185) (9186)

**541.02 RECOVERY OF REAL ESTATE, 15 YEARS.** No action for the recovery of real estate or the possession thereof shall be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within 15 years before the beginning of the action. Such limitation shall not be a bar to an action for the recovery of real estate assessed as tracts or parcels separate from other real estate, unless it appears that the party claiming title by adverse possession or his ancestor, predecessor, or grantor, or all of them together, shall have paid taxes on the real estate in question at least five consecutive years of the time during which he claims these lands to have been occupied adversely.

These provisions shall not apply to actions relating to the boundary line of lands, which boundary lines are established by adverse possession, or to actions concerning lands included between the government or platted line and the line established by such adverse possession, or to lands not assessed for taxation.

[R. L. s. 4073; 1913 c. 239 s. 1] (9187)

**541.03 FORECLOSURE OF REAL ESTATE MORTGAGE.** Subdivision 1. **Limitation.** No action or proceeding to foreclose a real estate mortgage, whether by action or advertisement or otherwise, shall be maintained unless commenced within 15 years from the maturity of the whole of the debt secured by the mortgage, and this limitation shall not be extended by the non-residence of any plaintiff or defendant or any party interested in the land upon which the mortgage is a lien in any action commenced to foreclose such mortgage, nor by reason of any payment made after such maturity, nor by reason of any extension of the time of payment of the mortgage or the debt or obligation thereby secured or any portion thereof, unless such extension shall be in writing and shall have been recorded in the same office in which the original mortgage is recorded, within the limitation period herein provided, or prior to the expiration of any previously recorded extension of such mortgage or debt, nor by reason of any disability of any party interested in the mortgage.

Subdivision 2. **When time begins to run; commencement of proceedings.** The time within which any such action or proceeding may be commenced shall begin to run from the date of such mortgage, unless the time of the maturity of the debt or obligation secured by such mortgage shall be clearly stated in such mortgage. Any action or proceeding to foreclose a real estate mortgage, whether by action, by advertisement, or otherwise, commenced within the period of limitation herein

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provided, may be prosecuted to completion notwithstanding the expiration of the period of limitation, and proceedings to foreclose a real estate mortgage by advertisement shall be deemed commenced on the date of the first publication of the notice of sale.

[1909 c. 181 ss. 1, 2] (9188) (9189)

**541.04 JUDGMENTS, TEN YEARS.** No action shall be maintained upon a judgment or decree of a court of the United States, or of any state or territory thereof, unless begun within ten years after the entry of such judgment.

[R. L. s. 4075] (9190)

**541.05 VARIOUS CASES, SIX YEARS.** The following actions shall be commenced within six years:

(1) Upon a contract or other obligation, express or implied, as to which no other limitation is expressly prescribed;

(2) Upon a liability created by statute, other than those arising upon a penalty or forfeiture;

(3) For a trespass upon real estate;

(4) For taking, detaining, or injuring personal property, including actions for the specific recovery thereof;

(5) For criminal conversation, or for any other injury to the person or rights of another, not arising on contract, and not hereinafter enumerated;

(6) For relief on the ground of fraud, in which case the cause of action shall not be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud;

(7) To enforce a trust or compel a trustee to account, where he has neglected to discharge the trust, or claims to have fully performed it, or has repudiated the trust relation;

(8) Against sureties upon the official bond of any public officer, whether of the state or of any county, town, school district, or municipality therein; in which case the limitation shall not begin to run until the term of such officer for which the bond was given shall have expired.

[R. L. s. 4076] (9191)

**541.06 AGAINST SHERIFFS, CORONERS, OR CONSTABLES; FORFEITURES, THREE YEARS.** The following actions shall be commenced within three years:

(1) Against a sheriff, coroner, or constable for any act done in his official capacity and in virtue of his office, or for any omission of an official duty, including the non-payment of money collected or received on a judgment or execution;

(2) Upon a statute for a penalty or forfeiture to the party aggrieved.

[R. L. s. 4077] (9192)

**541.07 TWO YEAR LIMITATIONS.** The following actions shall be commenced within two years:

(1) For libel, slander, assault, battery, false imprisonment, or other tort, resulting in personal injury, and all actions against physicians, surgeons, dentists, hospitals, sanitariums, for malpractice, error, mistake, or failure to cure, whether based on contract or tort; provided, a counter-claim may be pleaded as a defense to any action for services brought by a physician, surgeon, dentist, hospital, or sanitarium, after the limitations herein described notwithstanding it is barred by the provisions of this chapter, if it was the property of the party pleading it at the time it became barred and was not barred at the time the claim sued on originated, but no judgment thereof except for costs can be rendered in favor of the party so pleading it;

(2) Upon a statute for a penalty or forfeiture to the state;

(3) For damages caused by a dam, other than a dam used for commercial purposes; but as against one holding under the preemption or homestead laws, such limitations shall not begin to run until a patent has been issued for the land so damaged;

(4) Against a master for breach of an indenture of apprenticeship; the limitation in such case to run from the expiration of the term of service.

[R. L. s. 4078; 1925 c. 113 s. 1; 1935 c. 80 s. 1] (9193)

**541.08 LOCAL IMPROVEMENT CERTIFICATES; LIMITATION; LIEN SUPERSEDED.** No action for the refundment or recovery of moneys paid on account of the purchase of any valid or invalid certificate of sale for a local improvement assessment, heretofore or hereafter issued by any city in this state

now or hereafter having a population of over 50,000, shall be maintained after the expiration of two years from the date when notice of expiration of the period of redemption of the property described in such certificate from the sale evidenced thereby could have lawfully been given; nor shall such action be maintained in any case where the person claiming under such certificate of sale has permitted the lien evidenced by such certificate to be superseded, avoided, or cut out by a subsequent or superior lien arising either from the levy of taxes for general purposes or from the levy of a duly authorized local improvement assessment.

[1907 c. 183 s. 1] (9194)

**541.09 ACTION TO BE COMMENCED WITHIN ONE YEAR.** Subdivision 1. **Instrument authorizing a confession.** No action shall be maintained upon any judgment note or other instrument, heretofore or hereafter executed, containing any provision authorizing a confession of judgment thereon, unless begun within one year after the cause of action shall have accrued.

Subdivision 2. **Action upon judgment from United States court.** No action shall be maintained upon any judgment or decree of any court of the United States, or of any state or territory thereof, heretofore or hereafter entered upon a plea of confession under any warrant of attorney or other instrument signed by the debtor authorizing such confession, unless the action upon such judgment be begun within one year after the rendition or entry thereof.

[1915 c. 222 ss. 1, 2] (9195) (9196)

**541.10 MUTUAL ACCOUNTS.** If the action be to recover a balance due upon a mutual, open, and current account, and there have been reciprocal demands between the parties, the limitation shall begin to run from the date of the last item proved on either side.

[R. L. s. 4079] (9197)

**541.11 FOR A PENALTY GIVEN TO PROSECUTOR.** Every action upon a statute for a penalty given in whole or in part to the person who prosecutes therefor shall be commenced by such party within one year after the commission of the offense; but, if the action is not commenced within one year by a private party, it may be commenced within two years thereafter on behalf of the state by the attorney general or the county attorney of the county where the offense was committed.

[R. L. s. 4080] (9198)

**541.115 LIMITATIONS OF ACTIONS RELATING TO MAINTENANCE OF WATER LEVELS.** No action or proceeding against the State of Minnesota, its officers or agents, shall be maintained on account of the construction, reconstruction, operation, or maintenance of any dam or appurtenant structures designed to maintain water levels above natural ordinary high or on account of the maintenance of such levels, where such levels have been maintained for a period of 15 years or more prior to January 1, 1941.

[1941 c. 409 s. 1]

**541.12 WHEN ACTION DEEMED BEGUN; PENDENCY.** An action shall be considered as begun against each defendant when the summons is served on him, or on a codefendant who is a joint contractor or otherwise united in interest with him, or is delivered to the proper officer for such service; but, as against any defendant not served within the period of limitation, such delivery shall be ineffectual, unless within 60 days thereafter the summons be actually served on him or the first publication thereof be made. When an action is begun it shall be deemed pending until the final judgment therein has been satisfied.

[R. L. s. 4081] (9199)

**541.13 EFFECT OF ABSENCE FROM STATE.** If, when a cause of action accrues against a person, he is out of the state, an action may be commenced within the times herein limited after his return to the state; and if, after a cause of action accrues, he departs from and resides out of the state, the time of his absence is not part of the time limited for the commencement of the action.

[R. L. s. 4082] (9200)

**541.14 WHEN CAUSE OF ACTION ACCRUES OUT OF STATE.** When a cause of action has arisen outside of this state and, by the laws of the place where it arose, an action thereon is there barred by lapse of time, no such action shall be maintained in this state unless the plaintiff be a citizen of the state who has owned the cause of action ever since it accrued.

[R. L. s. 4083] (9201)

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**541.15 PERIODS OF DISABILITY NOT COUNTED.** Any of the following grounds of disability, existing at the time when a cause of action accrued, shall suspend the running of the period of limitation until the same is removed; provided that such period, except in the case of infancy, shall not be extended for more than five years, nor in case for more than one year after the disability ceases:

- (1) That the plaintiff is within the age of 21 years;
- (2) His insanity;
- (3) His imprisonment on a criminal charge, or under sentence of a criminal court for a term less than his natural life;
- (4) Is an alien and the subject or citizen of a country at war with the United States;
- (5) When the beginning of the action is stayed by injunction or by statutory prohibition.

If two or more disabilities shall coexist, the suspension shall continue until all are removed.

[R. L. s. 4084] (9202)

**541.16 PERIOD BETWEEN DEATH OF PARTY AND GRANTING OF LETTERS.** The time which elapses between the death of a person and the granting of letters testamentary or of administration on his estate, not exceeding six months, and a period of six months after the granting of such letters, are not to be deemed any part of the time limited for the commencement of actions by executors or administrators. If the death occur within the last year of the period of limitation, the action may be commenced by the personal representative at any time within one year after such death. If a cause of action survive against a decedent, which is not required by law to be presented to the probate court, an action may be brought thereon against the personal representative of the decedent at any time within one year after the granting of letters testamentary or of administration.

[R. L. s. 4085] (9203)

**541.17 NEW PROMISE MUST BE IN WRITING.** No acknowledgement or promise shall be evidence of a new or continuing contract sufficient to take the case out of the operation of this chapter unless the same is contained in some writing signed by the party to be charged thereby; but this section shall not alter the effect of a payment of principal or interest.

[R. L. s. 4086] (9204)

**541.18 NEW ACTION IN CASE OF REVERSAL.** If judgment be recovered by plaintiff in an action begun within the prescribed period of limitation and such judgment be afterward arrested or reversed on error or appeal, the plaintiff may begin a new action within one year after such reversal or arrest.

[R. L. s. 4087] (9205)