

MINNESOTA STATUTES 1974

5931

LIMITATION OF TIME, COMMENCING ACTIONS 541.023

CHAPTER 541

LIMITATION OF TIME, COMMENCING ACTIONS

| Sec. | | Sec. | |
|---------|---|---------|---|
| 541.01 | Application to state and other states; exceptions | 541.08 | Local improvement certificates; limitation; lien superseded |
| 541.02 | Recovery of real estate, 15 years | 541.09 | Action to be commenced within one year |
| 541.023 | Actions affecting title to real estate | 541.10 | Mutual accounts |
| 541.03 | Foreclosure of real estate mortgage | 541.115 | Actions relating to maintenance of water levels |
| 541.04 | Judgments, ten years | 541.13 | Absence from state |
| 541.05 | Various cases, six years | 541.14 | Cause of action accruing out of state |
| 541.051 | Limitation of action for damages based on services or construction to improve real property | 541.15 | Periods of disability not counted |
| 541.06 | Sheriffs, coroners, constables; forfeitures, three years | 541.16 | Period between death of party and granting of letters |
| 541.07 | Two year limitations | 541.17 | New promise must be in writing |
| 541.072 | Special limitation | 541.18 | New action in case of reversal |
| | | 541.20 | Recovery of money lost |
| | | 541.21 | Commitments for gambling debt void |

NOTE: For rules of civil procedure, district court, see Appendix 8.

541.01 APPLICATION TO STATE AND OTHER STATES; EXCEPTIONS.

Actions can only be commenced within the periods prescribed in this chapter, after the cause of action accrues, except where a different limitation is prescribed by the uniform commercial code or, in special cases, by other statute; provided that a cause of action for sales or use taxes imposed by any other state shall be deemed to have accrued at the time such tax first becomes due and payable.

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. s. 4071, 4072; 1963 c 749 s 1; 1965 c 812 s 19] (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.

The provisions of paragraph two 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)

541.023 ACTIONS AFFECTING TITLE TO REAL ESTATE. Subdivision 1. Commencement. As against a claim of title based upon a source of title, which source has then been of record at least 40 years, no action affecting the possession or title of any real estate shall be commenced by a person, partnership, corporation, state, or any political division thereof, after January 1, 1948, to enforce any right, claim, interest, incumbrance or lien founded upon any instrument, event or transaction which was executed or occurred more than 40 years prior to the commencement of such action, unless within 40 years after such execution or occurrence there has been recorded in the office of the register of deeds or filed in the office of the registrar of titles in the county in which the real estate affected is situated, a notice sworn to by the claimant or his agent or attorney setting forth the name of the claimant, a description of the real estate affected and of the instrument, event or transaction on which such claim is founded, and stating whether the right, claim, interest, incumbrance or lien is mature or immature. If such notice relates to vested or contingent rights claimed under a condition subsequent or restriction it shall affirmatively show why such condition or restriction is not, or has not become nominal so that it may be disregarded under the provisions of Minnesota Statutes 1945, Section 500.20, Subdivision 1.

Subd. 2. Application. This section shall apply to every right, claim, interest,

MINNESOTA STATUTES 1974

incumbrance or lien founded upon any instrument, event or transaction 40 years old at the date hereof, or which will be 40 years old prior to January 1, 1948, except those under which the claimant thereunder shall file a notice as herein provided prior to January 1, 1948.

Subd. 3. **Extent of section.** This section does not extend the right to commence any action beyond the date at which such right would be extinguished by any other statute.

Subd. 4. **Notices, filing or recording; fee.** Registers of deeds and registrars of titles are hereby directed to accept for recording or filing notices conforming with the provisions hereof, and to charge therefor fees corresponding with the fees charged for filing notices of lis pendens of similar length. Such notices may be discharged in the same manner as notices of lis pendens, and, when so discharged, shall, together with all information included therein, cease to constitute either actual or constructive notice.

Subd. 5. **Abandonment presumed.** Any claimant under any instrument, event or transaction barred by the provisions of this section shall be conclusively presumed to have abandoned all right, claim, interest, incumbrance or lien based upon such instrument, event or transaction; and the title in the name of any adverse claimant to the real estate which would otherwise be affected thereby shall not be deemed unmarketable by reason of the existence of such instrument, event or transaction; it being hereby declared as the policy of the State of Minnesota that, except as herein provided, ancient records shall not fetter the marketability of real estate.

Subd. 6. **Limitations; certain titles not affected.** This section shall not affect any rights of the Federal government; nor increase the effect as notice, actual or constructive, of any instrument now of record; nor bar the rights of any person, partnership or corporation in possession of real estate. This section shall not impair the record title or record interest, or title obtained by or through any congressional or legislative grant, of any railroad corporation or other public service corporation or any trustee or receiver thereof or of any educational or religious corporation in any real estate by reason of any failure to file or record further evidence of such title or interest even though the record thereof is new or hereafter more than 40 years old; nor shall this section require the filing of any notice as provided for in this act as to any undischarged mortgage or deed of trust executed by any such corporation or any trustee or receiver thereof or to any claim or action founded upon any such undischarged mortgage or deed of trust. The exceptions of this subdivision shall not include (a) reservations or exceptions of land for right of way or other railroad purposes contained in deeds of conveyance made by a railroad company or by trustees or receivers thereof, unless said reserved or excepted land shall have been put to railroad use within 40 years after the date of said deeds of conveyance, (b) nor any rights under any conditions subsequent or restrictions contained in any such deeds of conveyance. This act shall not affect any action or proceeding which is now or on January 1, 1948, shall be pending, for the determination of validity of the title to real estate.

Subd. 7. **Source of title.** For the purposes of this section, the words "source of title" as used in subdivision 1 hereof shall mean any deed, judgment, decree, sheriff's certificate, or other instrument which transfers or confirms, or purports to transfer or confirm, a fee simple title to real estate, including any such instrument which purports to transfer, or to confirm the transfer of a fee simple title from a person who was not the record owner of the real estate. However, any such instrument which purports to transfer, or to confirm the transfer of, a fee simple title from a person who was not the record owner of the real estate to the grantee or transferee named in such instrument shall be deemed a source of title "of record at least 40 years" within the meaning of subdivision 1 only if, during the period of 40 years after it was recorded, the following two conditions are fulfilled: (1) another instrument was recorded which purports to transfer a fee simple title from said grantee or transferee to another person and (2) no instrument was recorded which purports to be or confirm a transfer of any interest in the real estate by or from whoever was the record owner in fee simple immediately before the commencement of said period of 40 years. The purpose of the next preceding sentence is to limit the effect of erroneous descriptions or accidental conveyances. Insofar as this subdivision 7 may bar any claim not otherwise barred or extinguished by this section or by some other statute, it shall not be effective until June 1, 1960, and it shall not then apply to any such claim with respect to which a notice has been filed

MINNESOTA STATUTES 1974

5933

LIMITATION OF TIME, COMMENCING ACTIONS 541.051

under the provisions of this section prior to that date. This subdivision 7 shall not affect any action or proceeding which is now, or on or before June 1, 1960, shall be, pending in any court.

[1943 c 529; 1945 c 124 s 1; 1947 c 118 s 1; 1959 c 492 s 1]

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.

Subd. 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 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 s 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. Except where the uniform commercial code otherwise prescribes, 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 or where a shorter period is provided by section 541.07;
- (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 a 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;
- (9) For damages caused by a dam, used for commercial purposes.

[R. L. s 4076; 1953 c 378 s 1; 1965 c 812 s 20] (9191)

541.051 LIMITATION OF ACTION FOR DAMAGES BASED ON SERVICES OR CONSTRUCTION TO IMPROVE REAL PROPERTY. Subdivision 1. Except where fraud is involved, no action to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of such injury, shall

be brought against any person performing or furnishing the design, planning, supervision, or observation of construction or construction of such improvement to real property more than two years after discovery thereof, nor, in any event more than ten years after the completion of such construction. This limitation shall not be applied in favor of any person in actual possession and control as owner, tenant, or otherwise, of the improvement at the time the defective and unsafe conditions of such improvement constitutes the proximate cause of the injury for which it is proposed to bring an action.

Subd. 2. Notwithstanding the provisions of subdivision 1, in the case of such an injury to property or the person, or such an injury causing wrongful death, which injury occurred during the tenth year after the completion of such construction, an action to recover damages for such an injury or wrongful death may be brought within one year after the date on which such injury occurred, irrespective of the date of death, but in no event may such an action be brought more than 11 years after the completion of such construction.

Subd. 3. Nothing in this section shall be construed as extending the period prescribed by the laws of this state for the bringing of any action.

[1965 c 564 s 1]

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

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.

[R L s 4077; 1953 c 378 s 2] (9192)

541.07 TWO YEAR LIMITATIONS. Except where the uniform commercial code otherwise prescribes, 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, sanatoriums, 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 sanatorium, 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;

(3) For damages caused by a dam, other than a dam used for commercial purposes; but as against one holding under the pre-emption 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;

(5) For the recovery of wages or overtime or damages, fees or penalties accruing under any federal or state law respecting the payment of wages or overtime or damages, fees or penalties. (The term "wages" as used herein shall mean all remuneration for services or employment, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, where the relationship of master and servant exists and the term "damages," as used herein, shall mean single, double, or treble damages, accorded by any statutory cause of action whatsoever and whether or not the relationship of master and servant exists);

(6) For damages caused by the establishment of a street or highway grade or a change in the originally established grade;

(7) For sales or use taxes imposed by the laws of any other state.

[R L s 4078; 1925 c 113 s 1; 1935 c 80 s 1; 1945 c 513 s 1; 1953 c 378 s 3; 1955 o 843 s 1; 1963 c 749 s 2; 1965 c 812 s 21] (9193)

541.071 [Obsolete]

541.072 SPECIAL LIMITATION. An action to recover damages heretofore caused by the establishment of a street or highway grade or a change in the original-

MINNESOTA STATUTES 1974

5935

LIMITATION OF TIME, COMMENCING ACTIONS 541.15

ly established grade may be brought within the time prescribed in section 541.07 or within six months after April 25, 1955, whichever is the longer period.

[1955 c 843 s 2]

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. 188 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.

Subd. 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 [Repealed, 1953 c 378 s 5]

541.115 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 [Repealed, 1974 c 394 s 12]

541.13 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 CAUSE OF ACTION ACCRUING 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)

541.15 PERIODS OF DISABILITY NOT COUNTED. Any of the following grounds of disability, existing at the time when a cause of action accrued or arising anytime during the period of limitation, 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 any case for more than one year after the disability ceases:

- (1) That the plaintiff is within the age of 18 years;
- (2) His insanity;
- (3) His imprisonment on a criminal charge, or under a 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; 1949 c 304 s 1; 1973 c 725 s 81; 1974 c 384 s 2] (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. Except where the uniform commercial code otherwise prescribes, 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; 1965 c 812 s 22] (9205)

541.20 RECOVERY OF MONEY LOST. Every person who, by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, shall lose to any person so playing or betting any sum of money or any goods, and pays or delivers the same, or any part thereof, to the winner, may sue for and recover such money by a civil action, before any court of competent jurisdiction.

[R. L. s. 4967] (10217)

541.21 COMMITMENTS FOR GAMBLING DEBT VOID. Every note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration shall be for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of such gambling or betting, or lent and advanced for any gambling or betting to any person so gambling or betting, shall be void and of no effect as between the parties to the same, and as to all persons except such as hold or claim under them in good faith, without notice of the illegality of the consideration of such contract or conveyance.

[R. L. s. 4968] (10218)