

## MEMORANDUM

### Vermont Statutes of Limitation<sup>1</sup>

#### Limitation of Time for Commencement of Actions, From 12 V.S.A. §§ 461-466, 501-524, 551-560, 591-595.

§ 461: Limitations apply to actions brought by, or on behalf of State, as well as by citizens.

§ 462: Limitations do not apply to lands "given, granted, sequestered or appropriated to a public, pious or charitable use, or to lands belonging to the state."

§ 463: Cross claim or counterclaim cannot be brought if "an independent action upon the same claim would have been barred under the provisions of" the chapter.

§ 464: "The provisions of this chapter shall not affect an action otherwise specially limited by law."

§ 465: Contractual provision may not limit, except otherwise provided by statute, the time in which an action under the contract may be brought.

§ 466: Action is commenced for purposes of limitation when 1) complaint is filed, if action commenced by filing or 2) upon service of summons and complaint if action is commenced by service.

§ 501: **Recovery of Lands (15 years):** except as otherwise provided in 32 V.S.A. sec. 5263, action must be commenced "within 15 years after the cause of action first accrues."

§ 502: **Entry into houses or lands (15 years):** "A person having right or title of entry into houses or lands shall not enter after fifteen years from the time such right of entry accrues."

§ 503: **Covenant of Seisen (15 years):** "Actions brought on a covenant of seisen in a deed of conveyance of land, shall be brought within fifteen years after the cause of action accrues . . ."

§ 504: **Covenant of Warranty (8 years):** "An action founded on covenant of warrantee in a deed of land shall be brought only within eight years after a final decision against the title of the covenantor in such deed."

§ 505: **Covenants other than warranty of seisen (8 years):** "An action founded on a covenant . . . other than the covenants of warranty or seisen, shall be brought within eight years after the cause of action accrues . . ."

§ 506: **Judgments (8 years):** "Actions on judgments and actions for the renewal or revival of judgments shall be brought within eight years after the rendition of the judgment . . ."

§ 507: **Specialties (8 years):** "Actions on specialties shall be brought within eight years after the cause of action accrues . . ."

§ 508: **Witnessed promissory note (14 years):** "An action brought on a promissory note signed in the presence of an attesting witness shall be commenced within fourteen years after the cause of action accrues . . ."

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<sup>1</sup> This list is not exhaustive.

**§ 509: Evidence of debt issued by a moneyed corporation:** "The provisions of this chapter shall not apply to an action brought to enforce payment on any bills, notes or other evidences of debt issued by a bank or other moneyed corporation and put into circulation as money."

**§ 510: Liability of stockholders and of foreign corporations:** An action to enforce the liability of stockholders to the creditors or for the indebtedness of foreign corporations shall be brought within the time limited by the laws of the state under which they are incorporated . . ."

**§ 511: Civil Action (6 Years):** "A civil action, except on one brought upon the judgment or decree of a court of record of the United States or of this or some other state, and except as otherwise provided, shall be commenced within six years after the cause of action accrues . . ."

**§ 512: Assault and battery; false imprisonment; slander and libel; injuries to person or property (3 years):**

Actions for the following causes shall be commenced within three years after the cause of action accrues . . ." (1) Assault and Battery; (2) False imprisonment; (3) Slander and libel; (4) Except as otherwise provided in this chapter, injuries to the person suffered by the act or default of another person, provided that the cause of action shall be deemed to accrue as of the date of the discovery of the injury; (5) Damage to personal property suffered by the act or default of another.

**§ 513: Skiing, injuries sustained while participating in sport of (1 year):** "An action to recover for injuries sustained while participating in the sport of skiing shall be commenced within one year after the cause of action accrues . . ."

**§ 514: Insufficiency of bridge (2 years):** "An action against a town for the recovery of damages caused by the insufficiency or want of repair of a bridge or culvert shall be commenced within two years after the cause of action accrues . . ."

**§ 515: Neglect of official duty of town clerk (6 years):** "An action against a town, or town clerk, to recover damages for neglect of duty of such clerk in relation to a deed, execution or other instrument delivered to him or left at his office for record, shall be brought within six years after a final decision based upon such neglect and adverse to the right, title or claim of the party under such deed, execution or instrument . . ."

**§ 516: Misfeasance of sheriff or deputy (4 years):** "Actions against sheriffs for the misconduct or negligence of their deputies shall be commenced within four years after the cause of action accrues . . ."

**§ 517: Taxes paid under protest (1 year):** "An action to recover money paid under protest for taxes shall be commenced within one year after the cause of action accrues . . ."

**§ 518: Ionizing radiation injury; latent (3-20 years): (a)**

An action to recover for ionizing radiation injury or injury from other noxious agents medically recognized as having a prolonged latent development shall be commenced within three years after the person suffering the injury has knowledge or ought reasonably to have knowledge of having suffered the injury and of the cause thereof, but in no event more than twenty years from the date of the last occurrence to which the injury is attributed. (b) Action not barred by recovery in earlier proceeding unless P recovers for the latent injury.

**§ 519: Emergency medical care:** Section 519 does not affect tort liability of a medical practitioner for acts committed in the ordinary course of practice.

**§ 520: Payment of wages (2 years):** "Actions brought on a violation of section 342 of Title 21, shall be brought within two years after the cause of action accrues . . ."

**§ 521: Medical malpractice (3 Years):**

Notwithstanding section 512 of this title, and except as provided in sections 518 and 551 of this title, actions to recover damages for injuries to the person arising out of any medical or surgical treatment or operation shall be brought within three years of the date of the incident or two years from the date the injury is or reasonably should have been discovered, whichever occurs later, but not later than seven years from the date of the incident. **No statute of limitations shall limit the right to recover damages for injuries to the person arising out of any medical or surgical treatment or operation where fraudulent concealment has prevented the patient's discovery of the negligence.** Where the action is based upon the discovery of a foreign object in the patient's body, which is not discovered within the period of limitation under this section, the action may be commenced within two years of the date of discovery of the foreign object.

**Misc.**

**Title 7**

**7 V.S.A. § 501(d): Dram Shop Act (2 Years):** "Statute of limitations. An action to recover for damages under this section shall be commenced within two years after the cause . . ."

## **Title 8**

### **8 V.S.A § 3663 (Banking and Insurance):**

A policy of fire, life, accident, liability or burglary insurance, or an indemnity, surety or fidelity contract or bond issued or delivered in this state by an insurance company doing business herein shall not contain a condition or clause limiting the time of commencement of an action on such policy or contract to a period less than twelve months from the occurrence of the loss, death, accident or default, nor a condition or clause making an award by appraisers, fixing the amount of loss by the insured or beneficiary in such policy or contract, a condition precedent to bringing or maintaining an action on such policy or contract. Any such conditions or clauses shall be null and void.

## **Title 9 (UCC)**

**9 V.S.A. § (UCC) 4-111** “An action to enforce an obligation, duty, or right arising under this article must be commenced within three years after [the cause of action] accrues.”

**9A V.S.A. §§ 2-725 (UCC, Breach of Contract) (4 Years):** "An action for breach of any contract for sale must be commenced within four years after the cause of action has accrued. By the original agreement the parties may reduce the period of limitation to not less than one year but may not extend it."

**9A V.S.A. §§ 2A-506: (UCC) (Default Under Lease Contract) (4 Years):** "An action for default under a lease contract, including breach of warranty or indemnity, must be commenced within four years after the cause of action accrued. By the original lease contract the parties may reduce the period of limitation to not less than one year."

### **9A V.S.A. § 3-118: (UCC):**

(a) Except as provided in subsection (e), an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date.

(b) Except as provided in subsection (d) or (e), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within six years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of 10 years.

(c) Except as provided in subsection (d), an action to enforce the

obligation of a party to an unaccepted draft to pay the draft must be commenced within three years after dishonor of the draft or 10 years after the date of the draft, whichever period expires first.

(d) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

(e) An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within six years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the six-year period begins when a demand for payment is in effect and the due date has passed.

(f) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced (i) within six years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or (ii) within six years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(g) Unless governed by other law regarding claims for indemnity or contribution, an action (i) for conversion of an instrument, for money had and received, or like action based on conversion, (ii) for breach of warranty, or (iii) to enforce an obligation, duty, or right arising under this article and not governed by this section must be commenced within three years after the [cause of action] accrues.

**9A V.S.A. § 5-115:** "An action to enforce a right or obligation arising under this article must be commenced within one year after the expiration date of the relevant letter of credit or one year after the cause of action accrues, whichever occurs later. A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach."

## **Title 10**

### **10 V.S.A. § 8015 (Uniform Environmental Law Enforcement) (6 Years):**

"Notwithstanding any other provision of law, actions brought under this chapter or chapter 211 of this title shall be commenced within the latter of:

- (1) six years from the date the violation is or reasonably should have been discovered; or
- (2) six years from the date a continuing violation ceases."

## **Titles 11 & 12 & 13<sup>2</sup>**

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<sup>2</sup> Titles 11 and 12, corporations, court procedure, and crimes and criminal procedure, respectively, are omitted.

## **Title 14**

### **14 V.S.A. § 1203 (Estates) Limitations on presentation of claims**

(a) All claims against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, except claims for the possession of or title to, real estate and claims for injury to the person and damage to property suffered by the act or default of the deceased, if not barred earlier by other statute of limitations, are barred against the estate, the executor or administrator, and the heirs and devisees of the decedent, unless presented as follows:

(1) within four months after the date of the first publication of notice to creditors if notice is given in compliance with the rules of probate procedure; provided, claims barred by the nonclaim statute of the decedent's domicile before the first publication for claims in this state are also barred in this state;

(2) within three years after the decedent's death, if notice to creditors has not been published or otherwise given as provided by the rules of probate procedure.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, are barred against the estate, the executor or administrator, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the executor or administrator, within four months after performance by the executor or administrator is due;

(2) any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate; or

(2) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the executor or administrator for which he or she is protected by liability insurance;

(3) the enforcement of any tax liability.

### **14 V.S.A. § 931 Limitation on claims of creditors**

When a petition to open a decedent's estate is not filed in probate court within thirty days of death, all claims against the decedent's estate which

arose before the death of the decedent, including claims of the state and any subdivision thereof, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, if not barred earlier by other statutes of limitation, are barred against the estate, the legal representative of the estate, and the heirs and devisees of the decedent, unless presented within 3 years after the decedent's death. Nothing in this section affects or prevents any proceeding to enforce any mortgage, pledge or other lien upon the property of the estate.

#### **14 V.S.A. § 1492(a) Wrongful Death**

Action for death from wrongful act; procedure; damages

(a) Such action shall be brought in the name of the personal representative of such deceased person and commenced within **two years from the discovery of the death of the person**, but if the person against whom such action accrues is out of the state, the action may be commenced within two years after such person comes into the state. After such cause of action accrues and before such two years have run, if the person against whom it accrues is absent from and resides out of the state and has no known property within the state which can by common process of law be attached, the time of his or her absence shall not be taken as part of the time limited for the commencement of the action. If the death of the decedent occurred under circumstances such that probable cause is found to charge a person with homicide, the action shall be commenced within seven years after the discovery of the death of the decedent or not more than two years after the judgment in that criminal action has become final, whichever occurs later.

#### **14 V.S.A. § 2755 Limitation of Action on Bond**

An action shall not be maintained against the sureties in a bond given by a guardian, unless it is commenced within four years from the time the guardian is discharged. If the person entitled to commence the action is out of the state at the time of such discharge, he may commence such action within four years from the time he comes into the state.

### **Title 21**

#### **21 V.S.A. § 660 (Labor, Workers Compensation):**

§ 660 Sufficiency of notice of injury (a) A notice given under the provisions of this chapter shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place, nature or cause of the injury, or otherwise, unless it is shown that the employer was in fact misled to the

injury as a result of the inaccuracy. Want of or delay in giving notice, or in making a claim, shall not be a bar to proceedings under the provisions of this chapter, if it is shown that the employer, the employer's agent or representative, had knowledge of the accident or that the employer has not been prejudiced by the delay or want of notice. **Proceedings to initiate a claim for benefits pursuant to this chapter may not be commenced after six years from the date of injury.**

**(b) Notwithstanding subsection (a) of this section, a claim for occupational disease shall be made within two years of the date the occupational disease is reasonably discoverable and apparent.**

## **Title 24**

### **24 V.S.A. § 4496 (Municipal and County Government, Permits) Enforcement; limitations**

(a) An action, injunction, or other enforcement proceeding relating to the failure to obtain or comply with the terms and conditions of any required municipal land use permit may be instituted under section 1974a, 4444, or 4445 of this title against the alleged offender if the action, injunction, or other enforcement proceeding is instituted within 15 years from the date the alleged violation first occurred and not thereafter. The burden of proving the date the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

## **Title 32**

### **32 V.S.A. § 5294 Suits by taxpayer**

Unless commenced within **one year** from the time that collection is sought to be enforced against the taxpayer by arrest, distraint or levy, an action shall not lie wherein a taxpayer may question the validity of:

- (1) An act required to be done by a treasurer of a town relating to a tax assessed;
- (2) Notice by the treasurer to the taxpayer as to the amount of the tax or the time of the payment thereof;
- (3) Acts of the treasurer as to turning over the unpaid portion of the tax bill and the annexed warrant to the tax collector for collection;
- (4) Acts of the tax collector relating to the collection of the tax either before or after the tax became delinquent.

### **32 V.S.A. § 5263 Limitation of Actions against Grantee in Possession**

An action for the recovery of lands, or the possession thereof, shall not be maintained against the grantee of such lands in a tax collector's deed, duly recorded, or his heirs or assigns, when said grantee, his heirs or assigns have been in continuous and open possession of the land conveyed in such deed and have paid the taxes thereon, unless commenced within three years after the cause of action first accrues to the plaintiff or those under whom he claims.