

CHAPTER 614

LIMITATIONS OF ACTIONS

[P]

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and coversheet, see R.C.P. 1.301
Method of computing time, §4.1(34)
Limitations of state tort claims, §669.13
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GENERAL PROVISIONS

614.1 Period.

Actions may be brought within the times herein limited, respectively, after their causes accrue, and not afterwards, except when otherwise specially declared:

1. *Penalties or forfeitures under ordinance.* Those to enforce the payment of a penalty or forfeiture under an ordinance, within one year.

2. *Injuries to person or reputation — relative rights — statute penalty.* Those founded on injuries to the person or reputation, including injuries to relative rights, whether based on contract or tort, or for a statute penalty, within two years.

2A. *With respect to products.*

a. Those founded on the death of a person or injuries to the person or property brought against the manufacturer, assembler, designer, supplier of specifications, seller, lessor, or distributor of a product based upon an alleged defect in the design, inspection, testing, manufacturing, formulation, marketing, packaging, warning, labeling of the product, or any other alleged defect or failure of whatever nature or kind, based on the theories of strict

liability in tort, negligence, or breach of an implied warranty shall not be commenced more than fifteen years after the product was first purchased, leased, bailed, or installed for use or consumption unless expressly warranted for a longer period of time by the manufacturer, assembler, designer, supplier of specifications, seller, lessor, or distributor of the product. This subsection shall not affect the time during which a person found liable may seek and obtain contribution or indemnity from another person whose actual fault caused a product to be defective. This subsection shall not apply if the manufacturer, assembler, designer, supplier of specifications, seller, lessor, or distributor of the product intentionally misrepresents facts about the product or fraudulently conceals information about the product and that conduct was a substantial cause of the claimant's harm.

b. (1) The fifteen-year limitation in paragraph "a" shall not apply to the time period in which to discover a disease that is latent and caused by exposure to a harmful material, in which event the cause of action shall be deemed to have accrued when the disease and such disease's cause have been made known to the person or at the point the person should have been aware of the disease and such disease's cause. This subsection shall not apply to cases governed by subsection 11 of this section.

(2) As used in this paragraph, "*harmful material*" means silicone gel breast implants, which were implanted prior to July 12, 1992; and chemical substances commonly known as asbestos, dioxins, tobacco, or polychlorinated biphenyls, whether alone or as part of any product; or any substance which is determined to present an unreasonable risk of injury to health or the environment by the United States environmental protection agency pursuant to the federal Toxic Substance Control Act, 15 U.S.C. § 2601 et seq., or by this state, if that risk is regulated by the United States environmental protection agency or this state.

3. *Against sheriff or other public officer.* Those against a sheriff or other public officer for the nonpayment of money collected on execution within three years of collection.

4. *Unwritten contracts — injuries to property — fraud — other actions.* Those founded on unwritten contracts, those brought for injuries to property, or for relief on the ground of fraud in cases heretofore solely cognizable in a court of chancery, and all other actions not otherwise provided for in this respect, within five years, except as provided by subsections 8 and 10.

5. *Written contracts — judgments of courts not of record — recovery of real property.* Those founded on written contracts, or on judgments of any courts except those provided for in subsection 6, and those brought for the recovery of real property, within ten years.

6. *Judgments of courts of record.* Those founded on a judgment of a court of record, whether of this or of any other of the United States, or of the federal courts of the United States, within twenty years, except that a time period limitation shall not apply to an action to recover a judgment for child support, spousal support, or a judgment of distribution of marital assets.

7. *Judgment quieting title.* No action shall be brought to set aside a judgment or decree quieting title to real estate unless the same shall be commenced within ten years from and after the rendition thereof.

8. *Wages.* Those founded on claims for wages or for a liability or penalty for failure to pay wages, within two years.

9. *Malpractice.*

a. Except as provided in paragraph "b", those founded on injuries to the person or wrongful death against any physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor, physician assistant, or nurse, licensed under chapter 147, or a hospital licensed under chapter 135B, arising out of patient care, within two years after the date on which the claimant knew, or through the use of reasonable diligence should have known, or received notice in writing of the existence of, the injury or death for which damages are sought in the action, whichever of the dates occurs first, but in no event shall any action be brought more than six years after the date on which occurred the act or omission or occurrence alleged in the action to have been the cause of the injury or death unless a foreign object unintentionally left in the body caused the injury or death.

b. An action subject to paragraph “a” and brought on behalf of a minor who was under the age of eight years when the act, omission, or occurrence alleged in the action occurred shall be commenced no later than the minor’s tenth birthday or as provided in paragraph “a”, whichever is later.

10. *Secured interest in farm products.* Those founded on a secured interest in farm products, within two years from the date of sale of the farm products against the secured interest of the creditor.

11. *Improvements to real property.* In addition to limitations contained elsewhere in this section, an action arising out of the unsafe or defective condition of an improvement to real property based on tort and implied warranty and for contribution and indemnity, and founded on injury to property, real or personal, or injury to the person or wrongful death, shall not be brought more than fifteen years after the date on which occurred the act or omission of the defendant alleged in the action to have been the cause of the injury or death. However, this subsection does not bar an action against a person solely in the person’s capacity as an owner, occupant, or operator of an improvement to real property.

12. *Sexual abuse or sexual exploitation by a counselor, therapist, or school employee.* An action for damages for injury suffered as a result of sexual abuse, as defined in section 709.1, by a counselor, therapist, or school employee, as defined in section 709.15, or as a result of sexual exploitation by a counselor, therapist, or school employee shall be brought within five years of the date the victim was last treated by the counselor or therapist, or within five years of the date the victim was last enrolled in or attended the school.

13. *Public bonds or obligations.* Those founded on the cancellation, transfer, redemption, or replacement of public bonds or obligations by an issuer, trustee, transfer agent, registrar, depository, paying agent, or other agent of the public bonds or obligations, within eleven years of the cancellation, transfer, redemption, or replacement of the public bonds or obligations.

14. *County collection of taxes.* No time limitation shall apply to an action brought by a county under section 445.3 to collect delinquent real property taxes levied on or after April 1, 1992.

[C51, §1659; R60, §1075, 1865, 2740; C73, §486, 2529; C97, §3447; S13, §2963-g, 3447; C24, 27, 31, 35, 39, §11007; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.1]

83 Acts, ch 69, §1, 2; 86 Acts, ch 1120, §1; 91 Acts, ch 130, §3; 92 Acts, ch 1199, §1; 93 Acts, ch 89, §3; 95 Acts, ch 108, §21; 97 Acts, ch 175, §235; 97 Acts, ch 197, §5, 6, 16; 98 Acts, ch 1100, §78; 2002 Acts, ch 1050, §51; 2003 Acts, ch 180, §62; 2007 Acts, ch 40, §1; 2008 Acts, ch 1032, §83; 2008 Acts, ch 1088, §141

614.2 Death of party to be charged.

In all cases where by the death of the party to be charged, the bringing of an action against the party’s estate shall have been delayed beyond the period provided for by statute, the time within which action may be brought against the estate is hereby extended for six months from the date of the death of said decedent.

[S13, §3447-a; C24, 27, 31, 35, 39, §11008; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.2]

614.3 Judgments.

No action shall be brought upon any judgment against a defendant therein, rendered in any court of record of this state, within nine years after the rendition thereof, without leave of the court for good cause shown, and, if the adverse party is a resident of this state, upon reasonable notice of the application therefor to the adverse party; nor on a judgment of a justice of the peace in the state within nine years after the same is rendered, unless the docket of the justice or record of such judgment is lost or destroyed; but the time during which an action on a judgment is prohibited by this section shall not be excluded in computing the statutory period of limitation for an action thereon.

[C73, §2521; C97, §3439; S13, §3439; C24, 27, 31, 35, 39, §11009; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.3]

[P] Action on certain judgments prohibited, chapter 615

[P] Lien of judgments, §624.23

614.4 Fraud — mistake — trespass.

In actions for relief on the ground of fraud or mistake, and those for trespass to property, the cause of action shall not be deemed to have accrued until the fraud, mistake, or trespass complained of shall have been discovered by the party aggrieved.

[C51, §1660; R60, §2741; C73, §2530; C97, §3448; C24, 27, 31, 35, 39, §11010; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.4]

614.4A Identity theft.

In actions for relief on the ground of identity theft under section 714.16B, the cause of action shall not be deemed to have accrued until the identity theft complained of is discovered by the party aggrieved.

2005 Acts, ch 18, §1

614.5 Open account.

When there is a continuous, open, current account, the cause of action shall be deemed to have accrued on the date of the last item therein, as proved on the trial.

[C51, §1662; R60, §2743; C73, §2531; C97, §3449; C24, 27, 31, 35, 39, §11011; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.5]

614.6 Nonresident or unknown defendant.

The period of limitation above described shall be computed omitting any time when:

1. The defendant is a nonresident of the state, or
2. In those cases involving personal injuries or death resulting from a felony or indictable misdemeanor, while the identity of the defendant is unknown after diligent effort has been made to discover it. The provisions of this section shall be effective January 1, 1970, and to this extent the provisions are retroactive.

[C51, §1664; R60, §2745; C73, §2533; C97, §3451; C24, 27, 31, 35, 39, §11013; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.6]

614.7 Bar in foreign jurisdiction.

When a cause of action has been fully barred by the laws of any country where the defendant has previously resided, such bar shall be the same defense here as though it had arisen under the provisions of this chapter; but this section shall not apply to causes of action arising within this state.

[C51, §1665; R60, §2746; C73, §2534; C97, §3452; C24, 27, 31, 35, 39, §11014; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.7]

614.8 Minors and persons with mental illness.

1. The times limited for actions in this chapter, or chapter 216, 669, or 670, except those brought for penalties and forfeitures, are extended in favor of persons with mental illness, so that they shall have one year from and after the termination of the disability within which to file a complaint pursuant to chapter 216, to make a claim pursuant to chapter 669, or to otherwise commence an action.

2. Except as provided in section 614.1, subsection 9, the times limited for actions in this chapter, or chapter 216, 669, or 670, except those brought for penalties and forfeitures, are extended in favor of minors, so that they shall have one year from and after attainment of majority within which to file a complaint pursuant to chapter 216, to make a claim pursuant to chapter 669, or to otherwise commence an action.

[C51, §1666; R60, §2747; C73, §2535; C97, §3453; C24, 27, 31, 35, 39, §11015; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.8]

96 Acts, ch 1129, §113; 97 Acts, ch 197, §7, 16; 2007 Acts, ch 110, §2

[SP] 2007 amendments to this section apply to all complaints, claims, and actions arising out of an alleged death, loss, or injury occurring on or after July 1, 2007; 2007 Acts, ch 110, §6

614.8A Damages for child sexual abuse — time limitation.

An action for damages for injury suffered as a result of sexual abuse which occurred when the injured person was a child, but not discovered until after the injured person is of the age

of majority, shall be brought within four years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the sexual abuse.

90 Acts, ch 1241, §2

614.9 Exception in case of death.

If the person having a cause of action dies within one year next previous to the expiration of the limitation above provided for, such limitation shall not apply until one year after such death.

[C51, §1667; R60, §2748; C73, §2536; C97, §3454; C24, 27, 31, 35, 39, §11016; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.9]

614.10 Failure of action.

If, after the commencement of an action, the plaintiff, for any cause except negligence in its prosecution, fails therein, and a new one is brought within six months thereafter, the second shall, for the purposes herein contemplated, be held a continuation of the first.

[C51, §1668; R60, §2749; C73, §2537; C97, §3455; C24, 27, 31, 35, 39, §11017; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.10]

614.11 Admission in writing — new promise.

Causes of action founded on contract are revived by an admission in writing, signed by the party to be charged, that the debt is unpaid, or by a like new promise to pay the same.

[C51, §1670; R60, §2751; C73, §2539; C97, §3456; C24, 27, 31, 35, 39, §11018; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.11]

614.12 Counterclaim.

A counterclaim may be pleaded as a defense to any cause of action, 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 thereon, except for costs, can be rendered in favor of the party so pleading it.

[R60, §2752; C73, §2540; C97, §3457; C24, 27, 31, 35, 39, §11019; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.12]

614.13 Injunction.

When the commencement of an action shall be stayed by injunction or statutory prohibition, the time of the continuance of such injunction or prohibition shall not be part of the time limited for the commencement of the action, except as herein otherwise provided.

[C73, §2541; C97, §3458; C24, 27, 31, 35, 39, §11020; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.13]

614.13A Definitions.

As used in this chapter, unless the context otherwise requires, “book”, “list”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1

SPECIAL LIMITATIONS

614.14 Real estate interest transferred by trustee.

1. If an interest in real estate is held of record by a trustee, a bona fide purchaser acquires all rights in the real estate which the trustee and the beneficiary of the trust had and any rights of persons claiming by, through or under them, free of any adverse claim including but not limited to claims arising under section 561.13 or claims relating to an interest in real estate arising under section 633.238.

2. A bona fide purchaser is a purchaser for value in good faith and without notice of any

adverse claim, who has relied on a current, recorded affidavit in substantially the following form delivered to the purchaser:

[Individual trustee]

Affidavit in re

[insert legal description]

I,, being first duly sworn and under oath state of my personal knowledge that:

1. I am the trustee under the trust dated, to which the above-described real estate was conveyed to the trustee by, pursuant to an instrument recorded the day of (month), (year), recorded in the office of the County Recorder in [insert recording data].

2. I am the presently existing trustee under the trust and am authorized to [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever.

3. The trust is in existence and I as trustee am authorized to transfer the interests in the real estate as described in paragraph 2, free and clear of any adverse claims.

.....
[signature of affiant]

Sworn to and subscribed before me by on this day of (month), (year)

.....
[Notary Public in and for
the State of]

[Corporate trustee]

Affidavit in re

[insert legal description]

I,, being first duly sworn and under oath state of my personal knowledge that:

1. is the trustee under the trust dated, to which the above-described real estate was conveyed to the trustee by, pursuant to an instrument recorded the day of (month), (year), recorded in the office of the County Recorder in [insert recording data].

2. is the presently existing trustee under the trust and is authorized to [describe the transfer to be made by the trustee to the bona fide purchaser], without any limitation or qualification whatsoever, and I am [officer] of the corporate trustee.

3. The trust is in existence and as trustee is authorized to transfer the interests in the real estate as described in paragraph 2, free and clear of any adverse claims.

.....
[signature of affiant]

Sworn to and subscribed before me by, on this day of (month), (year)

.....
[Notary Public in and for
the State of]

3. As used in this section, “*adverse claim*” includes a claim that a transfer was or would be wrongful, a claim that a particular adverse person is the owner of or has an interest in the real estate, and a claim that would be disclosed by the examination of any document not of record.

4. Unless clearly provided to the contrary by the instrument of transfer to a purchaser, a trustee transferring an interest in real estate warrants to the transferee all of the following:

- a. That the trust pursuant to which the transfer is made is duly executed and in existence.
- b. That, to the knowledge of the trustee, the person creating the trust was under no disability or infirmity at the time the trust was created.
- c. That the transfer by the trustee to the purchaser is effective and rightful.
- d. That the trustee knows of no facts or legal claims which might impair the validity of the trust or the validity of the transfer.

5. a. A person holding an adverse claim arising or existing prior to January 1, 2009, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not file an action to enforce such claim after December 31, 2010, at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate.

b. An action based upon an adverse claim arising on or after January 1, 2009, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not be maintained either at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate, legal or equitable, more than one year after the date of recording of the instrument from which such claim may arise.

6. An interest in real estate held of record at any time by a trust shall be deemed to be held of record by the trustee of such trust.

7. This section shall not be construed to limit any personal action against the trustee or purported trustee.

[S13, §3447; C24, 27, 31, 35, 39, §11021; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.14]

91 Acts, ch 183, §33; 92 Acts, ch 1014, §1, 2; 92 Acts, ch 1163, §115; 99 Acts, ch 56, §1; 2000 Acts, ch 1058, §65; 2008 Acts, ch 1119, §12, 13, 39; 2009 Acts, ch 52, §1, 14

[SP] 2008 amendments to this section apply retroactively to all trusts in existence on or after July 1, 1998; 2008 Acts, ch 1119, §39

[SP] 2009 amendment to subsection 6 applies retroactively to all trusts in existence on or after July 1, 1999; 2009 Acts, ch 52, §14

614.15 Spouse failing to join in conveyance.

1. In all cases where the holder of the legal or equitable title or estate to real estate situated within this state, prior to July 1, 1981, conveyed the real estate or any interest in the real estate by deed, mortgage, or other instrument, and the spouse failed to join in the conveyance, the spouse or the heirs at law, personal representatives, devisees, grantees, or assignees of the spouse are barred from recovery unless suit is brought for recovery within one year after July 1, 1991. But in case the right to the distributive share has not accrued by the death of the spouse executing the instrument, then the one not joining is authorized to file in the recorder’s office of the county where the land is situated, a notice with affidavit setting forth affiant’s claim, together with the facts upon which the claim rests, and the residence of the claimants. If the notice is not filed within two years from July 1, 1991, the claim is barred forever. Any action contemplated in this section may include land situated in different counties, by giving notice as provided by section 617.13.

2. In all cases where the holder of the legal or equitable title or estate to real estate situated within this state, after July 1, 1981, conveyed the real estate or any interest in the real estate by deed, mortgage, or other instrument, and the spouse failed to join in the conveyance, the spouse or the heirs at law, personal representative, devisees, grantees, or assignees of the spouse are barred from recovery unless suit is brought for recovery within ten years from the date of the conveyance. However, in the case where the right to the distributive share has not accrued by the death of the spouse executing the instrument, then the party not joining is authorized to file in the recorder’s office in the county where the land is situated, a notice with affidavit setting forth the affiant’s claim, together with the facts upon which the claim is

based, and the residence of the claimants. If the notice is not filed within ten years from the date of the execution of the instrument the claim is barred forever. Any action contemplated in this section may include land situated in different counties by giving notice as provided in section 617.13. The effect of filing the notice with affidavit shall extend for a further period of ten years the time within which the action may be brought. Successive notices may be filed extending this period.

[S13, §3447-b; C24, 27, 31, 35, 39, §11022; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.15]

91 Acts, ch 183, §34; 93 Acts, ch 14, §1

614.16 Interpretative clause.

Sections 614.14 and 614.15 do not affect litigation pending on July 1, 1991, nor do they operate to revive rights or claims barred previous to that date, nor permit an action to be brought or maintained upon any claim or cause of action which is barred by a statute in force prior to July 1, 1991.

[C24, 27, 31, 35, 39, §11023; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.16]

91 Acts, ch 183, §35

614.17 Claims to real estate antedating 1980.

1. An action based upon a claim arising or existing prior to January 1, 1980, shall not be maintained, either at law or in equity, in any court to recover real estate in this state or to recover or establish any interest in or claim to real estate, legal or equitable, against the holder of the record title to the real estate in possession, when the holder of the record title and the holder's immediate or remote grantors are shown by the record to have held chain of title to the real estate, since January 1, 1980, unless the claimant in person, or by the claimant's attorney or agent, or if the claimant is a minor or under legal disability, by the claimant's guardian, trustee, or either parent, within one year from and after July 1, 1991, files in the office of the recorder of deeds of the county in which the real estate is situated, a statement in writing, which is duly acknowledged, definitely describing the real estate involved, the nature and extent of the right or interest claimed, and stating the facts upon which the claim is based.

2. For the purposes of this section, section 614.17A, and sections 614.18 to 614.20, a person who holds title to real estate by will or descent from a person who held the title of record to the real estate at the date of that person's death or who holds title by decree or order of a court, or under a tax deed, trustee's, referee's, guardian's, executor's, administrator's, receiver's, assignee's, master's in chancery, or sheriff's deed, holds chain of title the same as though holding by direct conveyance.

3. For the purposes of this section and section 614.17A, such possession of real estate may be shown of record by affidavits showing the possession, and when the affidavits have been filed and recorded, it is the duty of the recorder to index the applicable entries specified in sections 558.49 and 558.52 and to index the name of the owner in possession, as named in the affidavits, and in like manner, the affidavits may be filed and recorded where any action was barred on any claim by this section as in force prior to July 1, 1991.

[C24, 27, 31, 35, 39, §11024; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.17]

91 Acts, ch 183, §36; 2007 Acts, ch 101, §5

614.17A Claims to real estate after 1992.

1. After July 1, 1992, an action shall not be maintained in a court, either at law or in equity, in order to recover or establish an interest in or claim to real estate if all the following conditions are satisfied:

a. The action is based upon a claim arising more than ten years earlier or existing for more than ten years.

b. The action is against the holder of the record title to the real estate in possession.

c. The holder of the record title to the real estate in possession and the holder's immediate or remote grantors are shown by the record to have held chain of title to the real estate for more than ten years.

2. The claimant within ten years of the date on which the claim arose or first existed must file with the county recorder in the county where the real estate is located a written statement which is duly acknowledged and definitely describes the real estate involved, the nature and extent of the right of interest claimed, and the facts upon which the claim is based. The claimant must file the statement in person or by the claimant's attorney or agent. If the claimant is a minor or under a legal disability, the statement must be filed by the claimant's guardian, trustee, or by either parent.

The filing of a claim shall extend for a further period of ten years the time within which such action may be brought by any person entitled to bring the claim. The person may file extensions for successive claims.

3. Nothing in this section shall be construed to revive any cause of action barred by section 614.17.

91 Acts, ch 183, §37

614.18 Claim recorded and indexed.

Any such claim so filed shall be recorded, and the entries required in section 614.17A and any applicable entries specified in sections 558.49 and 558.52 indexed, in the office of the recorder of the county where such real estate is situated.

[C24, 27, 31, 35, 39, §11025; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.18]

2007 Acts, ch 101, §6

614.18A Judgment and decree affecting real property.

In an action in which the court had jurisdiction of the aggrieved party, a motion or other legal proceeding attacking the validity of the judgment or decree based on noncompliance with the requirements of rule of civil procedure 1.972 shall not affect the interests of any purchaser or mortgagee for value of the real property involved unless the motion or proceeding is initiated within thirty days after the recording of the sheriff's deed or within ninety days after the filing of a judgment or decree not providing for the issuance of a sheriff's deed.

2009 Acts, ch 51, §1, 17

[SP] Section applies to sheriffs' deeds recorded and judgments entered on or after July 1, 2009; 2009 Acts, ch 51, §17

614.19 Inapplicability of provision regarding minors and persons with mental illness.

The provisions of section 614.8 as to the rights of minors and persons with mental illness shall not be applicable against the provisions of sections 614.17, 614.17A, 614.18, and 614.20.

[C24, 27, 31, 35, 39, §11026; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.19]

96 Acts, ch 1129, §113; 2000 Acts, ch 1069, §1

614.20 Limitation on Act.

Sections 614.17 to 614.19 do not limit or extend the time within which actions by a spouse to recover dower or distributive share in real estate within this state may be brought or maintained under the provisions of section 614.15, nor do they limit or extend the time within which actions may be brought or maintained to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate under the provisions of section 614.21, nor do they revive or permit an action to be brought or maintained upon any claim or cause of action which is barred by a statute which is in force prior to July 1, 1991; nor do they affect litigation pending on July 1, 1991.

[C24, 27, 31, 35, 39, §11027; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.20]

91 Acts, ch 183, §38

614.21 Foreclosure of ancient mortgages.

No action shall be maintained to foreclose or enforce any real estate mortgage, bond for deed, trust deed, or contract for the sale or conveyance of real estate, after twenty years from the date thereof, as shown by the record of such instrument, unless the record of such instrument shows that less than ten years have elapsed since the date of maturity of the indebtedness or part thereof, secured thereby, or since the right of action has accrued thereon,

or unless the record shows an extension of the maturity of the instrument or of the debt or a part thereof, and that ten years from the expiration of the time of such extension have not yet expired. The date of maturity, when different than as appears by the record of the instrument, and the date of maturity of any extension of said indebtedness or part thereof, may be shown at any time prior to the expiration of the above periods of limitation by the holder of the debt or the owner or assignee of the instrument filing an extension agreement, duly acknowledged as the original instrument was required to be acknowledged, in the office of the recorder where the instrument is recorded.

From and after July 4, 1946, this section shall also apply to any instrument of the kind described in this section which is not of record but which is described or referred to in any other instrument which is filed of record and the limitation shall be ten years from the due date of the instrument referred to if disclosed in the record and if not so disclosed then within ten years from the date of the record of the instrument containing such reference.

[S13, §3447-c; C24, 27, 31, 35, 39, §11028; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.21]

2006 Acts, ch 1031, §14

614.22 Action affecting ancient deeds.

1. An action shall not be maintained to set aside, cancel, annul, declare void or invalid, or to redeem from a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed, or sheriff's deed which has been recorded in the office of the recorder of the county or counties in this state in which the land described in the deed is situated prior to January 1, 1980, unless the action is commenced prior to January 1, 1992, and if an action to set aside, cancel, annul, declare void or invalid, or to redeem from the deed is not commenced prior to January 1, 1992, then the deed and all the proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause; provided that this subsection and section 614.23 do not apply to real property described in a deed which is not in the possession of those claiming title under the deed.

2. On and after January 1, 1992, an action shall not be maintained to set aside, cancel, annul, declare void or invalid, or to redeem from a tax deed, guardian's deed, executor's deed, administrator's deed, receiver's deed, referee's deed, assignee's deed, or sheriff's deed, if the deed has been recorded in the office of the recorder for more than ten years. The deed must be recorded in the office of the recorder of the county or counties in which the land described in the deed is situated. If an action under this subsection is not commenced within ten years of the recording of the deed, then the deed and all proceedings upon which the deed is based are valid and unimpeachable and effective to convey title as stated in the deed, without exception for infancy, mental illness, absence from the state, or other disability or cause.

However, this subsection and section 614.23 do not apply to real property described in a deed which is not in the possession of those claiming title under the deed.

[SS15, §3447-d; C24, 27, 31, 35, 39, §11029; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.22]

91 Acts, ch 183, §39; 2000 Acts, ch 1069, §2

[P] Legalizing Acts, chapter 589

614.23 How "possession" established.

The possession of the persons claiming title as provided for in section 614.22 may be established by affidavit recorded in the office of the recorder of the county or counties in this state in which the deed to the land referred to in said affidavit is recorded.

[SS15, §3447-e; C24, 27, 31, 35, 39, §11030; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §614.23]

614.24 Reversion or use restrictions on land — preservation.

1. No action based upon any claim arising or existing by reason of the provisions of any deed or conveyance or contract or will reserving or providing for any reversion, reverted

interests or use restrictions in and to the land therein described shall be maintained either at law or in equity in any court to recover real estate in this state or to recover or establish any interest therein or claim thereto, legal or equitable, against the holder of the record title to such real estate in possession after twenty-one years from the recording of such deed of conveyance or contract or after twenty-one years from the admission of said will to probate unless the claimant shall, personally, or by the claimant's attorney or agent, or if the claimant is a minor or under legal disability, by the claimant's guardian, trustee, or either parent or next friend, file a verified claim with the recorder of the county wherein said real estate is located within said twenty-one year period. In the event said deed was recorded or will was admitted to probate more than twenty years prior to July 4, 1965, then said claim may be filed on or before one year after July 4, 1965. Such claims shall set forth the nature thereof, also the time and manner in which such interest was acquired. For the purposes of this section, the claimant shall be any person or persons claiming any interest in and to said land or in and to such reversion, reverter interest or use restriction, whether the same is a present interest or an interest which would come into existence if the happening or contingency provided in said deed or will were to happen at once. Said claimant further shall include any member of a class of persons entitled to or claiming such rights or interests.

2. The provisions of this section requiring the filing of a verified claim shall not apply to the reversion of railroad property if the reversion is caused by the property being abandoned for railway purposes and the abandonment occurs after July 1, 1980. The holder of such a reversionary interest may bring an action based upon the interest regardless of whether a verified claim has been filed under this section at any time after July 4, 1965.

3. This section shall not impair the validity of an environmental covenant established pursuant to chapter 455I.

[C66, 71, 73, 75, 77, 79, 81, §614.24]

2005 Acts, ch 102, §18; 2007 Acts, ch 22, §103

614.25 Effect of filing claim.

The filing of such claim shall extend for a further period of twenty-one years the time within which such action may be brought by any person entitled thereto, and successive claims for further like extensions may be filed.

[C66, 71, 73, 75, 77, 79, 81, §614.25]

614.26 Indexing.

The provisions of section 614.18 are made applicable to the provisions of sections 614.24 to 614.28.

[C66, 71, 73, 75, 77, 79, 81, §614.26]

614.27 Persons under disability.

The provisions of section 614.8 as to the rights of minors and persons with mental illness shall not be applicable against the provisions of sections 614.24 to 614.28.

[C66, 71, 73, 75, 77, 79, 81, §614.27]

96 Acts, ch 1129, §113

614.28 Barred claims.

The provisions of sections 614.24 to 614.27, inclusive, or the filing of a claim or claims, hereunder, shall not revive or permit an action to be brought or maintained upon any claim or cause of action which is barred by any other statute. Provided further, that nothing contained in these sections shall affect litigation pending on July 4, 1965.

[C66, 71, 73, 75, 77, 79, 81, §614.28]

MARKETABLE RECORD TITLE

614.29 Definitions.

As used in this chapter:

1. “*Marketable record title*” means a title of record, as indicated in section 614.31, which operates to extinguish such interests and claims, existing prior to the effective date of the root of title, as are stated in section 614.33.

2. “*Records*” includes probate and other official public records, as well as records in the office of the county recorder.

3. “*Recording*”, when applied to the official public records of a probate or other court, includes filing.

4. “*Person dealing with the land*” includes a purchaser of any estate or interest therein, a mortgagee, a levying or attaching creditor, a land contract vendee, or any other person, corporation, or entity seeking to acquire an estate or interest therein, or impose a lien thereon.

5. “*Root of title*” means that conveyance or other title transaction or other link in the chain of title of a person, purporting to create the interest claimed by such person, upon which the person relies as a basis for the marketability of the person’s title, and which was the most recent to be recorded or established as of a date forty years prior to the time when marketability is being determined. The effective date of the “*root of title*” is the date on which it is recorded.

6. “*Title transaction*” means any transaction affecting title to any interest in land, including title by will or descent, title by tax deed, or deed by trustee, referee, guardian, executor, administrator, master in chancery, sheriff, or any other form of deed or decree of any court, as well as warranty deed, quitclaim deed, mortgage, or transfer or conveyance of any kind.

[C71, 73, 75, 77, 79, 81, §614.29]

2004 Acts, ch 1052, §5

614.30 Construction liberal.

This chapter shall be liberally construed to effect the legislative purpose of simplifying and facilitating land title transactions by allowing persons to rely on a record chain of title as described in section 614.31, subject only to such limitations as appear in section 614.32.

[C71, 73, 75, 77, 79, 81, §614.30]

2004 Acts, ch 1052, §6

614.31 Forty-year chain of title.

Any person who has an unbroken chain of title of record to any interest in land for forty years or more, shall be deemed to have a marketable record title to such interest as defined in section 614.29, subject only to the matters stated in section 614.32. A person shall be deemed to have such an unbroken chain of title when the official public records disclose a conveyance or other title transaction, of record not less than forty years at the time the marketability is to be determined, which said conveyance or other title transaction purports to create such interest, either in:

1. The person claiming such interest, or
2. Some other person from whom, by one or more conveyances or other title transactions of record, such purported interest has become vested in the person claiming such interest; with nothing appearing of record, in either case, purporting to divest such claimant of such purported interest.

[C71, 73, 75, 77, 79, 81, §614.31]

614.32 What interests and rights subject.

Such marketable record title shall be subject to:

1. All interests and defects which are inherent in the muniments of which such chain of record title is formed; provided however, that a general reference in such muniments, or any of them, to easements, use restrictions or other interests created prior to the root of title shall not be sufficient to preserve them, unless specific identification be made therein of a recorded title transaction which creates such easement, use restriction, or other interest.

2. All interest preserved by the filing of proper notice or by possession by the same owner continuously for a period of forty years or more, in accordance with section 614.34.

3. The rights of any person arising from a period of adverse possession or user, which was in whole or in part subsequent to the effective date of the root of title.

4. Any interest arising out of a title transaction which has been recorded subsequent to the effective date of the root of title from which the unbroken chain of title of record is started; provided such recording shall not revive or give validity to any interest which has been extinguished prior to the time of the recording by the operation of section 614.33.

5. The exceptions as stated and set forth in section 614.36.

6. All interests created by an environmental covenant established pursuant to chapter 455I.

[C71, 73, 75, 77, 79, 81, §614.32]

2005 Acts, ch 102, §19

614.33 Free and clear of other interests not stated.

Subject to the matters stated in section 614.32, such marketable record title shall be held by its owner and shall be taken by any person dealing with the land free and clear of all interests, claims or charges whatsoever, the existence of which depends upon any act, transaction, event or omission that occurred prior to the effective date of the root of title. All such interests, claims or charges, however denominated, whether legal or equitable, present or future, whether such interest, claims or charges are asserted by a person able to assert a claim on the person's own behalf or under a disability, whether such person is within or without the state, whether such person is natural or corporate, or is private or governmental, are hereby declared to be null and void.

[C71, 73, 75, 77, 79, 81, §614.33]

614.34 Preserving interest during forty-year period.

1. Any person claiming an interest in land may preserve and keep effective such interest by filing for record during the forty-year period immediately following the effective date of the root of title of the person whose record title would otherwise be marketable, a notice in writing duly verified by oath or affirmation setting forth the nature of the claim. No disability or lack of knowledge of any kind on the part of anyone shall suspend the running of said forty-year period. Such notice may be filed for record by the claimant or by any other person acting on behalf of any claimant who is:

- a. Under a disability,
- b. Unable to assert a claim on the claimant's own behalf, or
- c. One of a class, but whose identity cannot be established or is uncertain at the time of filing such notice of claim for record.

2. If the same record owner of any possessory interest in land has been in possession of such land continuously for a period of forty years or more, during which period no title transaction with respect to such interest appears of record in the chain of title, and no notice has been filed by the record owner or on the record owner's behalf as provided in subsection 1, and such possession continues to the time when marketability is being determined, such period of possession shall be deemed equivalent to the filing of the notice immediately preceding the termination of the forty-year period described in subsection 1.

[C71, 73, 75, 77, 79, 81, §614.34]

614.35 Recording interest.

To be effective and to be entitled to record, the notice above referred to shall contain an accurate and full description of all land affected by such notice which description shall be set forth in particular terms and not by general inclusions; but if the claim is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument. Such notice shall be filed for record in the office of the county recorder of the county or counties where the land described in the notice is situated. The recorder of each county shall accept all such notices presented to the recorder which describe land located in the county in which the recorder serves and shall enter and record full copies of the notices and shall index the applicable entries specified in sections 558.49 and 558.52, and each recorder shall be entitled to charge the same fees for the recording of the notices as are charged for recording deeds. In indexing such notices in the recorder's office each

recorder shall enter such notices under the grantee indexes of deeds in the names of the claimants appearing in such notices.

[C71, 73, 75, 77, 79, 81, §614.35]

2006 Acts, ch 1031, §15; 2007 Acts, ch 101, §7

614.36 Lessors, reversioners, and easements.

This chapter shall not be applied to bar any lessor or lessor's successor as a reversioner of the lessor's right to possession on the expiration of any lease; or to bar or extinguish any easement or interest in the nature of an easement, the existence of which is apparent from or can be proved by physical evidence of its use; or to bar any right, title or interest of the United States, by reason of failure to file the notice herein required.

[C71, 73, 75, 77, 79, 81, §614.36]

2004 Acts, ch 1052, §7

614.37 Limitation statutes not extended.

Nothing contained in this chapter shall be construed to extend the period for the bringing of an action or for the doing of any other required act under any statutes of limitations, nor, except as herein specifically provided, to effect the operation of any statutes governing the effect of the recording or the failure to record any instrument affecting land. It is intended that nothing contained in this chapter be interpreted to revive or extend the period of filing a claim or bringing an action that may be limited or barred by any other statute.

[C71, 73, 75, 77, 79, 81, §614.37]

2004 Acts, ch 1052, §8; 2004 Acts, ch 1175, §387

614.38 Period extension in certain cases.

If the forty-year period specified in this chapter shall have expired prior to one year after July 1, 1969, such period shall be extended one year after July 1, 1969.

[C71, 73, 75, 77, 79, 81, §614.38]

2004 Acts, ch 1052, §9