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CHAPTER 3.

 LIMITATION OF CIVIL ACTIONS

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 15‑3‑20.** General rule as to time for commencement.

(A) Civil actions may only be commenced within the periods prescribed in this title after the cause of action has accrued, except when, in special cases, a different limitation is prescribed by statute.

(B) A civil action is commenced when the summons and complaint are filed with the clerk of court if actual service is accomplished within one hundred twenty days after filing.

**SECTION 15‑3‑30.** Exceptions where defendant is out of State.

If when a cause of action shall accrue against any person he shall be out of the State, such action may be commenced within the terms in this chapter respectively limited after the return of such person into this State. And if, after such cause of action shall have accrued, such person shall depart from and reside out of this State or remain continuously absent therefrom for the space of one year or more, the time of his absence shall not be deemed or taken as any part of the time limited for the commencement of such action.

**SECTION 15‑3‑40.** Exceptions as to persons under disability.

If a person entitled to bring an action mentioned in Article 5 of this chapter or an action under Chapter 78 of this title, except for a penalty or forfeiture or against a sheriff or other officer for an escape, is at the time the cause of action accrued either:

(1) within the age of eighteen years; or

(2) insane;

the time of the disability is not a part of the time limited for the commencement of the action, except that the period within which the action must be brought cannot be extended:

(a) more than five years by any such disability, except infancy; nor

(b) in any case longer than one year after the disability ceases.

**SECTION 15‑3‑50.** Disability must exist when right accrued.

No person shall avail himself of a disability unless it existed when his right of action accrued.

**SECTION 15‑3‑60.** Effect of two or more disabilities.

When two or more disabilities shall coexist at the time the right of action accrues the limitation shall not attach until they all be removed.

**SECTION 15‑3‑80.** Suits by and against enemy aliens.

When a person shall be an alien subject or citizen of a country at war with the United States the time of the continuance of the war shall not be a part of the period limited for the commencement of the action.

**SECTION 15‑3‑90.** Effect of reversal of judgment.

If an action shall be commenced within the time prescribed therefor and a judgment therein be reversed on appeal the plaintiff or, if he die and the cause of action survive, his heirs or representative may commence a new action within one year after the reversal.

**SECTION 15‑3‑100.** Effect of stay of action by injunction or statutory prohibition.

When the commencement of an action shall be stayed by injunction or statutory prohibition the time of the continuance of the injunction or prohibition shall not be part of the time limited for the commencement of the action.

**SECTION 15‑3‑110.** Limitations are not applicable to bills, notes or other evidences of debt of moneyed corporations.

This chapter shall not affect actions to enforce the payment of bills, notes or other evidences of debt issued by moneyed corporations or issued or put in circulation as money.

**SECTION 15‑3‑120.** Effect of new promises in writing or part payments.

No acknowledgment or promise shall be sufficient evidence of a new or continuing contract whereby to take the case out of the operation of this chapter unless it be contained in some writing signed by the party to be charged thereby. But payment of any part of principal or interest is equivalent to a promise in writing.

**SECTION 15‑3‑130.** Suits on causes saved from bar of statute by part payment or written acknowledgment.

All actions upon causes of action which would be barred by the statute of limitations but for part payment or a written acknowledgment shall be brought on the original cause of action and the part payment or written acknowledgment shall be evidence to prevent the bar of the statute of limitations.

**SECTION 15‑3‑140.** Contract provision shortening statutory period.

No clause, provision or agreement in any contract of whatsoever nature, verbal or written, whereby it is agreed that either party shall be barred from bringing suit upon any cause of action arising out of the contract if not brought within a period less than the time prescribed by the statute of limitations, for similar causes of action, shall bar such action, but the action may be brought notwithstanding such clause, provision or agreement if brought within the time prescribed by the statute of limitations in reference to like causes of action.

**SECTION 15‑3‑150.** No civil action for criminal conversation permitted.

No civil action may be brought in this State for the tort of criminal conversation.

ARTICLE 2.

 YEAR 2000 COMMERCE PROTECTION ACT

**SECTION 15‑3‑210.** Short title.

This article may be cited as the “Year 2000 Commerce Protection Act”.

**SECTION 15‑3‑220.** Legislative intent.

It is the intent of the South Carolina General Assembly that this article provide persons engaged in commerce in South Carolina, who suffer economic loss as a result of a Year 2000 problem, the opportunity to recover and be made whole for that economic loss while providing persons responsible for the Year 2000 problem a safe harbor from unlimited liability. This article is intended to be in addition to and supplement those protections offered by the federal Year 2000 Information and Readiness Disclosure Act.

**SECTION 15‑3‑230.** Definitions.

As used in this article:

(1) “Claim” means any cause of action in state courts, federal court, or arbitration related to a Year 2000 problem.

(2) “Contract” means any agreement for the delivery of goods or services in South Carolina, any agreement entered into in South Carolina for the delivery of goods or services, or any other agreement governed by the South Carolina Uniform Commercial Code.

(3) “Economic loss” means any damage for breach of contract or breach of warranty recognized under South Carolina law.

(4) “Person” means any individual, corporation, partnership, or other private entity capable under South Carolina law of entering into a contract as defined in item (2) of this section.

(5) “Year 2000 problem” means any computing, physical, enterprise, or distribution system complication, corruption or failure that has occurred or may occur as a result of computer hardware systems, software programs, semiconductors or other digitally operated systems inability to process properly the change of the year from 1999 to 2000 or the leap year change. This complication, corruption, or failure may result from, but is not limited to, the common computer programming practice of using a two‑digit field to represent a year, which can result in erroneous date calculations; an ambiguous interpretation of the term or field “00”; the failure to recognize 2000 as a leap year; algorithms that use “99” or “00” to activate another function; or the use of any other applications, software, or hardware that are date‑sensitive.

**SECTION 15‑3‑240.** Who may recover losses; recovery limited to economic loss and attorney’s fees; exceptions; frivolous claims.

(A) A person in privity of contract with another person may recover only economic loss as well as reasonable attorney’s fees and costs on any claims against the other as a result of a Year 2000 problem, except that recovery based upon any of the following claims is not subject to this limitation:

(1) the claim is for personal injury to an individual; or

(2) the person defending the claim has acted with fraudulent intent or reckless disregard for the truth in the formation of the contract; or

(3) a fiduciary duty recognized by law is owed by the person defending the claim to the person bringing the claim.

(B) No claim may be made under Title 39, Chapter 5, South Carolina Unfair Trade Practices Act.

(C) Any person who successfully defends a claim based on a Year 2000 problem is entitled to recover reasonable costs and attorney’s fees from the person bringing the claim if the court determines that the claim is frivolous. In determining whether or not a claim is frivolous, the court shall rely on the standards of the federal courts for the imposition of those sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure as those sanctions exist as of the date of the enactment of this article.

**SECTION 15‑3‑250.** Claims pending prior to approval of this article.

This article does not affect nor apply to any claim pending before approval of the act by the Governor.

**SECTION 15‑3‑255.** Contract provisions.

This article may not be construed to affect, abrogate, amend, or alter any enumerated rights, limitation of remedies, exclusion of damages, or any other provision of a contract.

**SECTION 15‑3‑260.** Severability of provisions of this article.

If any section or portion of any section of this article is held to be unenforceable or invalid by a court of competent jurisdiction, the validity and enforceability of the remaining sections or portion thereof shall not be affected by that action.

ARTICLE 3.

 ACTIONS FOR RECOVERY OF REAL PROPERTY

**SECTION 15‑3‑310.** Action by State.

The State will not sue any person for or in respect to any real property or the issues or profits thereof by reason of the right or title of the State to the same unless:

(1) Such right or title shall have accrued within twenty years before any action or other proceeding for the same shall be commenced; or

(2) The State or those from whom it claims shall have received the rents and profits of such real property or of some part thereof within the space of twenty years.

**SECTION 15‑3‑320.** Action by grantee from State.

No action shall be brought for or in respect to real property by any person claiming by virtue of letters patent or grants from the State unless such action might have been commenced by the State as specified in this article in case such patent or grant had not been issued or made.

**SECTION 15‑3‑330.** Action after State grants or patents have been declared void.

When letters patent or grants of real property shall have been issued or made by the State and such letters patent or grants shall be declared void by the determination of a competent court rendered upon an allegation of a fraudulent suggestion, concealment, forfeiture, mistake, ignorance of a material fact, wrongful detaining or defective title an action for the recovery of the premises so conveyed may be brought either by the State or by any subsequent patentee or grantee of the premises, his heirs or assigns, within ten years after such determination was made but not after that period.

**SECTION 15‑3‑340.** Action by individual for recovery of real property.

No action for the recovery of real property or for the recovery of the possession of real property may be maintained unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the premises in question within ten years before the commencement of the action.

**SECTION 15‑3‑350.** Action founded on title or for rents or services.

No cause of action or defense to an action founded upon a title to real property or to rents or services out of the same shall be effectual unless it appear that the person prosecuting the action or making the defense or under whose title the action is prosecuted or the defense is made, or the ancestor, predecessor or grantor of such person, was seized or possessed of the premises in question within ten years before the committing of the act in respect to which such action is prosecuted or defense made.

**SECTION 15‑3‑360.** Action after entry or accrual of right of entry.

No entry upon real estate shall be deemed sufficient or valid as a claim unless an action be commenced thereupon within one year after the making of such entry and within ten years from the time when the right to make such entry descended or accrued.

**SECTION 15‑3‑370.** Persons under disability.

If a person entitled to commence any action for the recovery of real property, or make an entry or defense founded on the title to real property or to rents or services out of the same is, at the time the title shall first descend or accrue, either:

(1) within the age of eighteen years; or

(2) insane;

the time during which the disability shall continue shall not be considered any portion of the time in this article limited for the commencement of the action or the making of the entry or defense, but the action may be commenced or entry or defense made after the period of ten years and within ten years after the disability shall cease or after the death of the person entitled who shall die under the disability. But the action shall not be commenced or entry or defense made after that period.

**SECTION 15‑3‑380.** Effect of forty‑year lapse.

No action shall be commenced in any case for the recovery of real property or for any interest therein against a person in possession under claim of title by virtue of a written instrument unless the person claiming, his ancestor or grantor, was actually in the possession of the same or a part thereof within forty years from the commencement of such action. And the possession of a defendant, sole or connected, pursuant to the provisions of this section shall be deemed valid against the world after the lapse of such a period.

ARTICLE 5.

 ACTIONS OTHER THAN FOR RECOVERY OF REAL PROPERTY

**SECTION 15‑3‑510.** General rule.

The periods for the commencement of actions other than for the recovery of real property shall be as prescribed in the following sections.

**SECTION 15‑3‑520.** Within twenty years.

Within twenty years:

(a) an action upon a bond or other contract in writing secured by a mortgage of real property;

(b) an action upon a sealed instrument, other than a sealed note and personal bond for the payment of money only whereon the period of limitation is the same as prescribed in Section 15‑3‑530, except that a sealed contract for sale or an offer to buy or sell goods whereon the period of limitation is the same as prescribed in Section 36‑2‑725.

**SECTION 15‑3‑530.** Three years.

Within three years:

(1) an action upon a contract, obligation, or liability, express or implied, excepting those provided for in Section 15‑3‑520;

(2) an action upon a liability created by statute other than a penalty or forfeiture;

(3) an action for trespass upon or damage to real property;

(4) an action for taking, detaining, or injuring any goods or chattels including an action for the specific recovery of personal property;

(5) an action for assault, battery, or any injury to the person or rights of another, not arising on contract and not enumerated by law, and those provided for in Section 15‑3‑545;

(6) an action under Sections 15‑51‑10 to 15‑51‑60 for death by wrongful act, the period to begin to run upon the death of the person on account of whose death the action is brought;

(7) any action for relief on the ground of fraud in cases which prior to the adoption of the Code of Civil Procedure in 1870 were solely cognizable by the court of chancery, the cause of action in the case not considered to have accrued until the discovery by the aggrieved party of the facts constituting the fraud;

(8) an action on any policy of insurance, either fire or life, whereby any person or property, resident or situate in this State, may be or may have been insured, or for or on account of any loss arising under the policy, any clause, condition, or limitation contained in the policy to the contrary notwithstanding; and

(9) an action against directors or stockholders of a monied corporation or a banking association to recover a penalty or forfeiture imposed or to enforce a liability created by law, the cause of action in the case not considered to have accrued until the discovery by the aggrieved party of the facts upon which the penalty or forfeiture attached or the liability was created, unless otherwise provided in the law under which the corporation is organized.

**SECTION 15‑3‑535.** Limitation on actions commenced under Section 15‑3‑530(5).

Except as to actions initiated under Section 15‑3‑545, all actions initiated under Section 15‑3‑530(5) must be commenced within three years after the person knew or by the exercise of reasonable diligence should have known that he had a cause of action.

**SECTION 15‑3‑540.** Three years.

Within three years:

(1) An action against a sheriff, coroner or constable upon a liability incurred by the doing of an act in his official capacity and in virtue of his office or by the omission of an official duty, including the nonpayment of money collected upon an execution, subject to the provisions of Section 15‑3‑560; and

(2) An action upon a statute for a penalty or forfeiture when the action is given to the party aggrieved or to such party and the State, except when the statute imposing it prescribes a different limitation.

**SECTION 15‑3‑545.** Actions for medical malpractice.

(A) In any action, other than actions controlled by subsection (B), to recover damages for injury to the person arising out of any medical, surgical, or dental treatment, omission, or operation by any licensed health care provider as defined in Article 5, Chapter 79, Title 38 acting within the scope of his profession must be commenced within three years from the date of the treatment, omission, or operation giving rise to the cause of action or three years from date of discovery or when it reasonably ought to have been discovered, not to exceed six years from date of occurrence, or as tolled by this section.

(B) When the action is for damages arising out of the placement and inadvertent, accidental, or unintentional leaving of a foreign object in the body or person of any one or the negligent placement of any appliance or apparatus in or upon any such person by any licensed health care provider acting within the scope of his profession by reason of any medical, surgical, or dental treatment or operation, the action must be commenced within two years from date of discovery or when it reasonably ought to have been discovered; provided, that, in no event shall there be a limitation on the commencement of the action less than three years after the placement or leaving of the appliance or apparatus.

(C) The provisions of this section apply only to causes of action which arise after June 10, 1977, and, as to causes of action which arise prior to June 10, 1977, the statute of limitations existing prior to June 10, 1977, applies.

(D) Notwithstanding the provisions of Section 15‑3‑40, if a person entitled to bring an action against a licensed health care provider acting within the scope of his profession is under the age of majority at the date of the treatment, omission, or operation giving rise to the cause of action, the time period or periods limiting filing of the action are not tolled for a period of more than seven years on account of minority, and in any case more than one year after the disability ceases. Such time limitation is tolled for minors for any period during which parent or guardian and defendant’s insurer or health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

**SECTION 15‑3‑550.** Two years.

Within two years:

(1) an action for libel, slander, or false imprisonment; and

(2) an action upon a statute for a forfeiture or penalty to the State.

**SECTION 15‑3‑555.** Statute of limitations for action based on sexual abuse or incest.

(A) An action to recover damages for injury to a person arising out of an act of sexual abuse or incest must be commenced within six years after the person becomes twenty‑one years of age or within three years from the time of discovery by the person of the injury and the causal relationship between the injury and the sexual abuse or incest, whichever occurs later.

(B) Parental immunity is not a defense against claims based on sexual abuse or incest that occurred before, on, or after this section’s effective date.

**SECTION 15‑3‑560.** One year.

Within one year:

(1) An action concerning or in any manner relating to wages claimed under a Federal statute or regulation;

(2) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process; and

(3) An action against any county of this State having a population as shown by the United States official census of 1930 or any subsequent United States official census in excess of eighty‑five thousand brought by any former, present or future officer, including county auditors and county treasurers, employee or agent thereof on account of any claim for salary, wages, fees, costs or other emolument or claim alleged to be due him on account of services rendered or performed, or brought upon any such claim by an assignee or personal representative thereof.

**SECTION 15‑3‑570.** Action for penalty.

An action upon a statute for a penalty or forfeiture given, in whole or in part, to any person who will prosecute for it must be commenced within one year after the commission of the offense. If the action be not commenced within the year by a private party it may be commenced within two years thereafter in behalf of the State by the Attorney General or the solicitor of the circuit where the offense was committed, unless a different limitation be prescribed in the statute under which the action is brought.

**SECTION 15‑3‑580.** Actions by motor carriers for charges.

All actions at law by motor carriers subject to Chapter 23 of Title 58 for the recovery of their charges or any part thereof shall be commenced within two years from the time the cause of action accrues and not thereafter. The cause of action by a motor carrier for its charges shall for the purpose of this section be deemed to accrue upon delivery or tender of delivery by the carrier.

**SECTION 15‑3‑590.** Actions against motor carriers for overcharges.

(1) Actions at law for the recovery of overcharges against motor carriers subject to Chapter 23 of Title 58 shall be commenced within two years from the time the cause of action accrues and not thereafter, subject to the provisions of subsection (2) of this section; provided, that if a claim for the overcharge has been presented in writing to the carrier within the two‑year period of limitation, the period shall be extended to include six months from the time notice in writing was given by the carrier to the claimant of disallowance of the claim, or any part or parts thereof.

(2) The cause of action against a motor carrier for overcharges shall for the purpose of this section be deemed to accrue at the time the charges are paid to the carrier.

(3) The term “overcharges” as used in this section shall be deemed to mean charges for transportation services in excess of those applicable thereto under the tariffs lawfully on file with the Public Service Commission.

**SECTION 15‑3‑600.** Action for other relief.

An action for relief not provided for in this chapter must be commenced within ten years after the cause of action shall have accrued.

**SECTION 15‑3‑610.** Action upon current account.

In an action brought to recover a balance due upon a mutual, open and current account when there have been reciprocal demands between the parties, the cause of action shall be deemed to have accrued from the time of the last item proved in the account on either side.

**SECTION 15‑3‑620.** Actions by State.

The limitations prescribed by this article shall apply to actions brought in the name of the State or for its benefit in the same manner as to actions by private parties; provided, however, that limitations against claims for charges for care, training, maintenance or treatment received by any patient or trainee from the South Carolina State Hospital, any State training school, or any State mental health facility, shall commence to run against the State, its boards, commissions or agencies charged with the operation of the above institutions only from the last date upon which care, training, maintenance or treatment was furnished to any such patient or trainee.

**SECTION 15‑3‑630.** Actions against architects, professional engineers or contractors; definitions.

As used in Sections 15‑3‑630 to 15‑3‑670, the terms set out hereinbelow shall be defined as follows: (a) “Person” shall mean an individual, corporation, partnership, business, trust, unincorporated organization, association or joint‑stock company; (b) “substantial completion” shall mean that degree of completion of a project, improvement, or a specified area or portion thereof (in accordance with the contract documents, as modified by any change orders agreed to by the parties) upon attainment of which the owner can use the same for the purpose for which it was intended; the date of substantial completion may be established by written agreement between the contractor and owner.

**SECTION 15‑3‑640.** Actions based upon defective or unsafe condition of improvement to real property; right to contract for guarantee of structure for extended period.

No actions to recover damages based upon or arising out of the defective or unsafe condition of an improvement to real property may be brought more than eight years after substantial completion of the improvement. For purposes of this section, an action based upon or arising out of the defective or unsafe condition of an improvement to real property includes:

(1) an action to recover damages for breach of a contract to construct or repair an improvement to real property;

(2) an action to recover damages for the negligent construction or repair of an improvement to real property;

(3) an action to recover damages for personal injury, death, or damage to property;

(4) an action to recover damages for economic or monetary loss;

(5) an action in contract or in tort or otherwise;

(6) an action for contribution or indemnification for damages sustained on account of an action described in this section;

(7) an action against a surety or guarantor of a defendant described in this section;

(8) an action brought against any current or prior owner of the real property or improvement, or against any other person having a current or prior interest in the real property or improvement;

(9) an action against owners or manufacturers of components, or against any person furnishing materials, or against any person who develops real property, or who performs or furnishes the design, plans, specifications, surveying, planning, supervision, testing, or observation of construction, or construction of an improvement to real property, or a repair to an improvement to real property.

This section describes an outside limitation of eight years after the substantial completion of the improvement, within which normal statutes of limitations continue to run.

A building permit for the construction of an improvement to real property must contain in bold type notice to the owner or possessor of the property of his rights under this section to contract for a guarantee of the structure being free from defective or unsafe conditions beyond eight years after substantial completion of the improvement. The Department of Consumer Affairs shall publish in conspicuous places the right of an owner or possessor to contract for extended liability under this section. Nothing in this section prohibits a person from entering into a contractual agreement prior to the substantial completion of the improvement which extends any guarantee of a structure or component being free from defective or unsafe conditions beyond eight years after substantial completion of the improvement or component.

For any improvement to real property, a certificate of occupancy issued by a county or municipality, in the case of new construction or completion of a final inspection by the responsible building official in the case of improvements to existing improvements, shall constitute proof of substantial completion of the improvement under the provisions of Section 15‑3‑630, unless the contractor and owner, by written agreement, establish a different date of substantial completion.

**SECTION 15‑3‑660.** Construction of Sections 15‑3‑640 through 15‑3‑670; extension of limitations periods.

Nothing in Sections 15‑3‑640 through 15‑3‑670 may be construed as extending the period, or periods, provided by the laws of South Carolina, except by agreement between the parties for the bringing of any action.

**SECTION 15‑3‑670.** Circumstances in which limitations provided by Sections 15‑3‑640 through 15‑3‑660 are not available as defense.

The limitation provided by Sections 15‑3‑640 through 15‑3‑660 may not be asserted as a defense by any person in actual possession or control, as owner, tenant, or otherwise, of the improvement at the time the defective or unsafe condition constitutes the proximate cause of the injury or death for which it is proposed to bring an action, in the event such person in actual possession or control knows, or reasonably should have known, of the defective or unsafe condition. The limitations provided by Sections 15‑3‑640 through 15‑3‑660 are not available as a defense to any person guilty of fraud, gross negligence, or recklessness in providing components in furnishing materials, in developing real property, in performing or furnishing the design, plans, specifications, surveying, planning, supervision, testing or observation of construction, construction of, or land surveying, in connection with such an improvement, or to any person who conceals any such cause of action. The limitation provided by Section 15‑3‑640 may not be asserted as a defense to any action for personal injury, including a personal injury resulting in death, or property damage which is (i) by its nature not discoverable in the exercise of reasonable diligence at the time of its occurrence and (ii) the result of ingestion of or exposure to some toxic or harmful or injury producing substance, element, or particle, including radiation, over a period of time as opposed to resulting from a sudden and fortuitous trauma.

**SECTION 15‑3‑680.** Construction of Sections 15‑3‑640 through 15‑3‑670; creation of causes of action not heretofore recognized; preclusion of causes of action accrued on May 12, 1986.

Nothing in Sections 15‑3‑640 through 15‑3‑670 of the 1976 Code may be construed as creating any cause of action not heretofore existing or recognized or barring any cause of action existing or accrued on May 12, 1986.