CHAPTER 3

Limitation of Civil Actions

Editor's Note

2021 Joint Resolution 39 (S.147), Sections 1 to 9, provide as follows:

"SECTION 1. This joint resolution must be known and may be cited as the 'South Carolina COVID‑19 Liability Immunity Act'.

"SECTION 2. The General Assembly hereby finds and declares that providing businesses and health care providers with reasonable protections from the risk and expense of lawsuits related to actual, alleged, or feared exposure to or contraction of the coronavirus will help encourage them to reopen and remain open and will help to protect those who provided services or goods that were novel or altered in an effort to combat the coronavirus pandemic. Providing such immunity to businesses and health care providers that operate consistently with applicable public health guidance will help ameliorate the adverse impacts of a closed economy and the resulting unemployment.

"SECTION 3. The following terms shall have the following meanings unless otherwise specified:

"(1) 'Coronavirus claim' means any claim or cause of action arising from:

"(a) an actual, alleged, or feared exposure to or contraction of coronavirus:

"(i) from the premises of a covered entity;

"(ii) from the operations, products, or services provided on‑premises or off‑premises for a covered entity; or

"(iii) from the acts or omissions of a covered individual or covered entity, to include the delay or withholding of medical care for the treatment or diagnosis of the coronavirus;

"(b)(i) the prescribing or dispensing of medicines for off‑label use to attempt to combat the coronavirus;

"(ii) the providing of health care services related to the coronavirus that are outside of a provider's professional scope of practice; or

"(iii) the utilizing of equipment or supplies to combat or treat the coronavirus in a manner outside of the equipment's or supplies' normal use in medical practice or in the provision of health care services; or

"(c) the manufacturing or donating of precautionary equipment or supplies, including personal protective equipment, due to shortages that occurred during the coronavirus pandemic.

"(2) 'Coronavirus disease 2019' or 'coronavirus', commonly abbreviated as 'COVID‑19', means the virus generally known as 'severe acute respiratory syndrome coronavirus 2', any mutation thereof, and any disease or condition caused by 'severe acute respiratory syndrome coronavirus 2'.

"(3) 'Covered entity' means any of the following:

"(a) any for‑profit or not‑for‑profit business entity, organized in any form whatsoever;

"(b) any South Carolina governmental agency, division, authority, board, commission, instrumentality, political subdivision, municipality, county, or other governmental entity; or

"(c) any health care facility, as defined in Chapter 4, Title 44 of the South Carolina Code, and any health care provider, as defined in Chapter 4, Title 44 of the South Carolina Code.

"(4) 'Covered individual' means any director, officer, employee, agent, contractor, third‑party worker, or other representative of a covered entity.

"(5) 'Public health guidance' means any applicable published guidance, directive, order, or rule provided by the South Carolina Occupational Safety and Health Administration, the South Carolina Department of Health and Environmental Control, or another state governmental entity, and federal guidance if referenced by state entities, that is applicable to the type of covered entity or covered individual at issue and to the coronavirus claim at issue.

"SECTION 4. Notwithstanding any other provision of law, a covered entity or covered individual that reasonably adheres to public health guidance applicable at the time the conduct giving rise to a coronavirus claim occurs shall be entitled to immunity from liability for any acts or omissions resulting in a coronavirus claim. This immunity will not apply:

"(1) for claims arising pursuant to SECTION 3(1)(b), if a claimant proves by a prepronderance of the evidence that the covered entity or covered individual caused the injury or damage by:

"(a) grossly negligent, reckless, wilful, or intentional misconduct; or

"(b) a failure to make any attempt to adhere to public health guidance; or

"(2) for all other claims, if the claimant proves by clear and convincing evidence that the covered entity or covered individual caused the injury or damage by:

"(a) grossly negligent, reckless, wilful, or intentional misconduct; or

"(b) a failure to make any attempt to adhere to public health guidance.

"SECTION 5. Nothing in this joint resolution shall be construed to preclude an insured's claim against an insurer's business interruption insurance policy.

"SECTION 6. (A) Nothing in this joint resolution shall be construed to limit in any way any defense or right that exists under law, and the liability protection provided by this joint resolution is in addition to and cumulative of other defenses and rights that exist under law.

"(B) Nothing in this joint resolution shall be construed to limit in any way any claim a claimant may have under the law against a covered entity or covered individual for liability as a result of acts or omissions that cause injuries, death, or damages other than from a coronavirus claim.

"SECTION 7. The provisions of this joint resolution are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this joint resolution is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of the joint resolution, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective. To the extent any provision of this joint resolution conflicts with any other law of this State, then the provisions of this joint resolution shall prevail.

"SECTION 8. The provisions of this joint resolution do not apply to and do not exclude or limit any actions or remedies available under Title 42, commonly known as the South Carolina Workers' Compensation Law.

"SECTION 9. This joint resolution takes effect upon approval by the Governor, and its provisions apply to all civil and administrative causes of action that arise between March 13, 2020, and June 30, 2021, or one hundred eighty days after the final state of emergency is lifted for COVID‑19 in this State, whichever is later, and that are based upon facts that occurred during this time period."

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.

HISTORY: 1962 Code Section 10‑102; 1952 Code Section 10‑102; 1942 Code Section 356; 1932 Code Section 356; Civ. P. '22 Section 313; Civ. P. '12 Section 119; Civ. P. '02 Section 94; 1870 (14) 444 Section 97; 2002 Act No. 281, Section 1.

**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.

HISTORY: 1962 Code Section 10‑103; 1952 Code Section 10‑103; 1942 Code Section 358; 1932 Code Section 358; Civ. P. '22 Section 341; Civ. P. '12 Section 147; Civ. P. '02 Section 121; 1870 (14) 448 Section 123.

**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.

HISTORY: 1962 Code Section 10‑104; 1952 Code Section 10‑104; 1942 Code Section 359; 1932 Code Section 359; Civ. P. '22 Section 342; Civ. P. '12 Section 148; Civ. P. '02 Section 122; 1870 (14) 448 Section 124; 1918 (30) 715; 1976 Act No. 695, Section 1; 1988 Act No. 352, Section 1; 1996 Act No. 234, Section 1.

**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.

HISTORY: 1962 Code Section 10‑105; 1952 Code Section 10‑105; 1942 Code Section 364; 1932 Code Section 364; Civ. P. '22 Section 347; Civ. P. '12 Section 153; Civ. P. '02 Section 127; 1870 (14) 448 Section 129.

**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.

HISTORY: 1962 Code Section 10‑106; 1952 Code Section 10‑106; 1942 Code Section 365; 1932 Code Section 365; Civ. P. '22 Section 348; Civ. P. '12 Section 154; Civ. P. '02 Section 128; 1870 (14) 448 Section 130.

**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.

HISTORY: 1962 Code Section 10‑108; 1952 Code Section 10‑108; 1942 Code Section 361; 1932 Code Section 361; Civ. P. '22 Section 344; Civ. P. '12 Section 150; Civ. P. '02 Section 124; 1870 (14) 448 Section 126.

**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.

HISTORY: 1962 Code Section 10‑109; 1952 Code Section 10‑109; 1942 Code Section 362; 1932 Code Section 362; Civ. P. '22 Section 345; Civ. P. '12 Section 151; Civ. P. '02 Section 125; 1870 (14) 448 Section 127.

**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.

HISTORY: 1962 Code Section 10‑110; 1952 Code Section 10‑110; 1942 Code Section 363; 1932 Code Section 363; Civ. P. '22 Section 346; Civ. P. '12 Section 152; Civ. P. '02 Section 126; 1870 (14) 448 Section 128.

**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.

HISTORY: 1962 Code Section 10‑111; 1952 Code Section 10‑111; 1942 Code Section 366; 1932 Code Section 366; Civ. P. '22 Section 349; Civ. P. '12 Section 155; Civ. P. '02 Section 129; 1870 (14) 449 Section 131.

**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.

HISTORY: 1962 Code Section 10‑112; 1952 Code Section 10‑112; 1942 Code Section 368; 1932 Code Section 368; Civ. P. '22 Section 351; Civ. P. '12 Section 157; Civ. P. '02 Section 131; 1870 (14) 450 Section 133.

**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.

HISTORY: 1962 Code Section 10‑114; 1952 Code Section 10‑114; 1942 Code Section 370; 1932 Code Section 370; Civ. P. '22 Section 353; Civ. P. '12 Section 159; Civ. P. '02 Section 131b; 1900 (23) 345.

**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.

HISTORY: 1962 Code Section 10‑116; 1952 Code Section 10‑116; 1942 Code Section 395; 1932 Code Section 395; Civ. P. '22 Section 338; Civ. P. '12 Section 144; 1911 (27) 130.

**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.

HISTORY: 1988 Act No. 391, Section 1.

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".

HISTORY: 1999 Act No. 120, Section 1.

**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.

HISTORY: 1999 Act No. 120, Section 1.

**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.

HISTORY: 1999 Act No. 120, Section 1.

**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.

HISTORY: 1999 Act No. 120, Section 1.

**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.

HISTORY: 1999 Act No. 120, Section 1.

**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.

HISTORY: 1999 Act No. 120, Section 1.

**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.

HISTORY: 1999 Act No. 120, Section 1.

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.

HISTORY: 1962 Code Section 10‑121; 1952 Code Section 10‑121; 1942 Code Section 371; 1932 Code Section 371; Civ. P. '22 Section 314; Civ. P. '12 Section 120; Civ. P. '02 Section 95; 1870 (14) Section 98; 1873 (15) 496.

**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.

HISTORY: 1962 Code Section 10‑122; 1952 Code Section 10‑122; 1942 Code Section 372; 1932 Code Section 372; Civ. P. '22 Section 315; Civ. P. '12 Section 121; Civ. P. '02 Section 96; 1870 (14) 445 Section 99.

**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.

HISTORY: 1962 Code Section 10‑123; 1952 Code Section 10‑123; 1942 Code Section 373; 1932 Code Section 373; Civ. P. '22 Section 316; Civ. P. '12 Section 122; Civ. P. '02 Section 97; 1870 (14) 445 Section 100; 1873 (15) 496.

**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.

HISTORY: 1962 Code Section 10‑124; 1952 Code Sections 10‑124, 10‑125; 1942 Code Section 374; 1932 Code Section 374; Civ. P. '22 Section 317; Civ. P. '12 Section 123; Civ. P. '02 Section 98; 1879 (22) 76; 1913 (27) 36; 1960 (51) 1737; 1988 Act No. 553, Section 1.

**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.

HISTORY: 1962 Code Section 10‑126; 1952 Code Section 10‑126; 1942 Code Section 375; 1932 Code Section 375; Civ. P. '22 Section 318; Civ. P. '12 Section 124; Civ. P. '02 Section 99; 1870 (14) 445 Section 102; 1873 (15) 496.

**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.

HISTORY: 1962 Code Section 10‑127; 1952 Code Section 10‑127; 1942 Code Section 376; 1932 Code Section 376; Civ. P. '22 Section 319; Civ. P. '12 Section 125; Civ. P. '02 Section 100; 1870 (14) 445 Section 103; 1873 (15) 496.

**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.

HISTORY: 1962 Code Section 10‑128; 1952 Code Section 10‑128; 1942 Code Section 384; 1932 Code Section 384; Civ. P. '22 Section 327; Civ. P. '12 Section 133; Civ. P. '02 Section 108; 1870 (14) 446 Section 111; 1873 (15) 496; 1976 Act No 695, Section 1; 1996 Act No. 234, Section 2.

**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.

HISTORY: 1962 Code Section 10‑129; 1952 Code Section 10‑129; 1942 Code Section 385; 1932 Code Section 385; Civ. P. '22 Section 328; Civ. P. '12 Section 134; Civ. P. '02 Section 109; 1873 (15) 496.

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.

HISTORY: 1962 Code Section 10‑141; 1952 Code Section 10‑141; 1942 Code Section 386; 1932 Code Section 386; Civ. P. '22 Section 329; Civ. P. '12 Section 135; Civ. P. '02 Section 110; 1870 (14) 447 Section 112.

**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.

HISTORY: 1962 Code Section 10‑142; 1952 Code Section 10‑142; 1942 Code Section 387; 1932 Code Section 387; Civ. P. '22 Section 330; Civ. P. '12 Section 136; Civ. P. '02 Section 111; 1870 (14) 447 Section 113; 1880 (17) 415; 1946 (44) 1436; 1988 Act No. 494, Section 8(1).

**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.

HISTORY: 1962 Code Section 10‑143; 1952 Code Section 10‑143; 1942 Code Sections 367, 388, 413; 1932 Code Sections 367, 388, 413; Civ. P. '22 Sections 331, 350, 369; Civ. C. '12 Section 3957; Civ. P. '12 Sections 137, 156; Civ. C. '02 Section 2853; Civ. P. '02 Sections 112, 130; 1870 (14) 447 Section 114, 450 Section 132; 1891 (20) 1042; 1903 (24) 96; 1977 Act No. 182, Section 1; 1988 Act No. 391, Section 2; 1988 Act No. 432, Section 1; 2001 Act No. 102, Section 1.

Editor's Note

The limitations period was reduced from 6 to 3 years in 1988.

**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.

HISTORY: 1977 Act No. 182, Section 5; 1988 Act No. 432, Section 2.

Editor's Note

The limitations period was reduced from 6 to 3 years in 1988.

**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.

HISTORY: 1962 Code Section 10‑144; 1952 Code Section 10‑144; 1942 Code Section 389; 1932 Code Section 389; Civ. P. '22 Section 332; Civ. P. '12 Section 138; Civ. P. '02 Section 113; 1870 (14) 447 Section 115.

**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.

HISTORY: 1962 Code Section 10‑145.1; 1977 Act No. 182, Section 2; 1988 Act No. 432, Section 3.

**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.

HISTORY: 1962 Code Section 10‑145; 1952 Code Section 10‑145; 1942 Code Section 390; 1932 Code Section 390; Civ. P. '22 Section 333; Civ. P. '12 Section 139; Civ. P. '02 Section 114; 1870 (14) 448, Section 116; 1988 Act No. 391, Section 3; 2001 Act No. 102, Section 2.

**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.

HISTORY: 2001 Act No. 102, Section 3.

**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.

HISTORY: 1962 Code Section 10‑146; 1952 Code Section 10‑146; 1942 Code Sections 391, 396‑1; 1932 Code Section 391; Civ. P. '22 Section 334; Civ. P. '12 Section 140; Civ. P. '02 Section 115; 1870 (14) 448 Section 117; 1938 (40) 1631; 1945 (44) 337.

**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.

HISTORY: 1962 Code Section 10‑147; 1952 Code Section 10‑147; 1942 Code Section 393; 1932 Code Section 393; Civ. P. '22 Section 336; Civ. P. '12 Section 142; Civ. P. '02 Section 117; 1870 (14) 448 Section 119.

**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.

HISTORY: 1962 Code Section 10‑147.1; 1952 (47) 2170.

**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.

HISTORY: 1962 Code Section 10‑147.2; 1952 (47) 2170.

**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.

HISTORY: 1962 Code Section 10‑148; 1952 Code Section 10‑148; 1942 Code Section 394; 1932 Code Section 394; Civ. P. '22 Section 337; Civ. P. '12 Section 143; Civ. P. '02 Section 118; 1870 (14) 448 Section 120.

**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.

HISTORY: 1962 Code Section 10‑149; 1952 Code Section 10‑149; 1942 Code Section 392; 1932 Code Section 392; Civ. P. '22 Section 335; Civ. P. '12 Section 141; Civ. P. '02 Section 116; 1870 (14) 448 Section 118.

**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.

HISTORY: 1962 Code Section 10‑150; 1952 Code Section 10‑150; 1942 Code Section 396; 1932 Code Section 396; Civ. P. '22 Section 339; Civ. P. '12 Section 145; Civ. P. '02 Section 119; 1870 (14) 448 Section 121; 1954 (48) 1732.

**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.

HISTORY: 1962 Code Section 10‑151; 1970 (56) 2397.

**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.

HISTORY: 1962 Code Section 10‑152; 1970 (56) 2397; 1986 Act No. 412, Section 1; 2005 Act No. 27, Section 2, eff July 1, 2005.

Editor's Note

2005 Act No. 27, Section 16(2), provides as follows:

"Section 2 [amending this section] takes effect on July 1, 2005, and applies to improvements to real property for which certificates of occupancy are issued by a county or municipality or completion of a final inspection by the responsible local building official after the effective date;[.]"

Effect of Amendment

The 2005 amendment substituted "eight years" for "thirteen years" in the first three undesignated paragraphs and made nonsubstantive language changes; at the end of item (6), substituted "section" for "subdivision"; and added the fourth undesignated paragraph relating to a certificate of occupancy as proof of substantial completion of an improvement project.

**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.

HISTORY: 1962 Code Section 10‑154; 1970 (56) 2397; 1986 Act No. 412, Section 2.

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

 (A) The limitation provided by Sections 15‑3‑640 through 15‑3‑660 may not be asserted as a defense by a 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 the 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 a 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 a person who conceals any such cause of action.

 (B) For the purposes of subsection (A), the violation of a building code of a jurisdiction or political subdivision does not constitute per se fraud, gross negligence, or recklessness, but this type of violation may be admissible as evidence of fraud, negligence, gross negligence, or recklessness.

 (C) The limitation provided by Section 15‑3‑640 may not be asserted as a defense to an action for personal injury, including a personal injury resulting in death, or property damage which is:

 (1) by its nature not discoverable in the exercise of reasonable diligence at the time of its occurrence; and

 (2) 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.

HISTORY: 1962 Code Section 10‑155; 1970 (56) 2397; 1986 Act No. 412, Section 3; 2011 Act No. 52, Section 5, eff January 1, 2012.

Editor's Note

2011 Act No. 52, Section 7, provides as follows:

"SECTION 7. This act takes effect January 1, 2012, and applies to all actions that accrue on or after the effective date except the provisions of SECTION 3 do not apply to any matter pending on the effective date of this act."

Effect of Amendment

The 2011 amendment inserted subsection (B) relating to fraud per se, gross negligence, or negligence, added subsection identifiers (A) and (C), changed subsection designators (i) and (ii) to (1) and (2), and made nonsubstantive changes.

**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.

HISTORY: 1986 Act No. 412, Section 4.

**SECTION 15‑3‑690.** Immunity from civil liability for liquefied petroleum gas dealers; definitions; scope.

 (A) As used in this subsection, the following definitions apply:

 (1) "System" or "systems" means assembly of equipment consisting of the container and any device that is connected to the container for the utilization of liquefied petroleum gas.

 (2) "Dealer" means a person engaging in the installation of liquefied petroleum gas systems or in the manufacture, distribution, sale, storing, or transporting by tank truck, tank trailer, or container of liquefied petroleum gases or engaging in installing, servicing, repairing, adjusting, disconnecting, or connecting appliances to liquefied petroleum gas systems and containers.

 (3) "Liquefied petroleum gas" means material composed predominately of hydrocarbons or mixtures of hydrocarbons, including propane, propylene, butanes (normal butane or isobutane), and butylenes.

 (B) A liquefied petroleum gas dealer shall be immune from civil liability if the proximate cause of the injury or damage was:

 (1) an alteration, modification, or repair of the liquefied petroleum gas system or gas burning appliance that could not have been discovered by the liquefied petroleum gas dealer in the exercise of reasonable care; or

 (2) the use of the liquefied petroleum gas system or gas burning appliance in a manner or for a purpose other than that for which the liquid petroleum gas system or gas burning appliance was intended to be used or for which could reasonably have been foreseen, provided that the liquefied petroleum gas dealer or the manufacturer of the liquefied petroleum gas system or gas burning appliance took reasonable steps to warn the ultimate consumer of the hazards associated with foreseeable misuses of the liquefied petroleum gas system or gas burning appliance.

 (C) Nothing in this subsection shall be construed as affecting, modifying, or eliminating the liability of a manufacturer of the liquefied petroleum gas system or gas burning appliance, or its employees or agents from any other legal claim, including, but not limited to, product liability claims.

 (D) Nothing in this subsection shall apply to a cylinder exchange company as defined pursuant to Section 40‑82‑20(3) or a reseller as defined pursuant to Section 40‑82‑20(7).

HISTORY: 2010 Act No. 155, Section 1, eff upon approval (became law without the Governor's signature on May 13, 2010).

**SECTION 15‑3‑700.** Immunity for property damage incurred in rescue from locked vehicle.

 A person is immune from civil liability for property damage resulting from his forcible entry into a motor vehicle for the purpose of removing a minor or vulnerable adult from the vehicle if the person has a reasonable good faith belief that forcible entry into the vehicle is necessary because the minor or vulnerable adult is in imminent danger of suffering harm.

HISTORY: 2016 Act No. 133 (H.3145), Section 1, eff February 16, 2016.