CIVIL PRACTICE AND REMEDIES CODE

TITLE 2. TRIAL, JUDGMENT, AND APPEAL

SUBTITLE B. TRIAL MATTERS

CHAPTER 16. LIMITATIONS

SUBCHAPTER A. LIMITATIONS OF PERSONAL ACTIONS

Sec. 16.001. EFFECT OF DISABILITY. (a) For the purposes of this subchapter, a person is under a legal disability if the person is:

(1) younger than 18 years of age, regardless of whether the person is married; or

(2) of unsound mind.

(b) If a person entitled to bring a personal action is under a legal disability when the cause of action accrues, the time of the disability is not included in a limitations period.

(c) A person may not tack one legal disability to another to extend a limitations period.

(d) A disability that arises after a limitations period starts does not suspend the running of the period.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1049, Sec. 56, eff. Sept. 1, 1987.

Sec. 16.002. ONE-YEAR LIMITATIONS PERIOD. (a) A person must bring suit for malicious prosecution, libel, slander, or breach of promise of marriage not later than one year after the day the cause of action accrues.

(b) A person must bring suit to set aside a sale of property seized under Subchapter E, Chapter 33, Tax Code, not later than one year after the date the property is sold.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 1017, Sec. 3, eff. Aug. 28, 1995.

Sec. 16.003. TWO-YEAR LIMITATIONS PERIOD. (a) Except as provided by Sections 16.010, 16.0031, and 16.0045, a person must bring suit for trespass for injury to the estate or to the property of another, conversion of personal property, taking or detaining

the personal property of another, personal injury, forcible entry and detainer, and forcible detainer not later than two years after the day the cause of action accrues.

(b) A person must bring suit not later than two years after the day the cause of action accrues in an action for injury resulting in death. The cause of action accrues on the death of the injured person.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1995, 74th Leg., ch. 739, Sec. 2, eff. June 15, 1995; Acts 1997, 75th Leg., ch. 26, Sec. 2, eff. May 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 97 (S.B. 15), Sec. 3, eff. September 1, 2005.

Sec. 16.0031. ASBESTOS-RELATED OR SILICA-RELATED INJURIES. (a) In an action for personal injury or death resulting from an asbestos-related injury, as defined by Section 90.001, the cause of action accrues for purposes of Section 16.003 on the earlier of the following dates:

(1) the date of the exposed person's death; or

(2) the date that the claimant serves on a defendant a report complying with Section 90.003 or 90.010(f).

(b) In an action for personal injury or death resulting from a silica-related injury, as defined by Section 90.001, the cause of action accrues for purposes of Section 16.003 on the earlier of the following dates:

(1) the date of the exposed person's death; or

(2) the date that the claimant serves on a defendant a report complying with Section 90.004 or 90.010(f).

Added by Acts 2005, 79th Leg., Ch. 97 (S.B. 15), Sec. 4, eff. September 1, 2005.

Sec. 16.004. FOUR-YEAR LIMITATIONS PERIOD. (a) A person must bring suit on the following actions not later than four years after the day the cause of action accrues:

(1) specific performance of a contract for the conveyance of real property;

(2) penalty or damages on the penal clause of a bond to convey real property;

(3) debt;

(4) fraud; or

(5) breach of fiduciary duty.

(b) A person must bring suit on the bond of an executor, administrator, or guardian not later than four years after the day of the death, resignation, removal, or discharge of the executor, administrator, or guardian.

(c) A person must bring suit against his partner for a settlement of partnership accounts, and must bring an action on an open or stated account, or on a mutual and current account concerning the trade of merchandise between merchants or their agents or factors, not later than four years after the day that the cause of action accrues. For purposes of this subsection, the cause of action accrues on the day that the dealings in which the parties were interested together cease.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1999, 76th Leg., ch. 950, Sec. 1, eff. Aug. 30, 1999.

Sec. 16.0045. LIMITATIONS PERIOD FOR CLAIMS ARISING FROM CERTAIN OFFENSES. (a) A person must bring suit for personal injury not later than 15 years after the day the cause of action accrues if the injury arises as a result of conduct that violates:

(1) Section 22.011(a)(2), Penal Code (sexual assault of a child);

(2) Section 22.021(a)(1)(B), Penal Code (aggravated sexual assault of a child);

(3) Section 21.02, Penal Code (continuous sexual abuse of young child or children);

(4) Section 20A.02(a)(7)(A), (B), (C), (D), or (H) or Section 20A.02(a)(8), Penal Code, involving an activity described by Section 20A.02(a)(7)(A), (B), (C), (D), or (H) or sexual conduct with a child trafficked in the manner described by Section 20A.02(a)(7), Penal Code (certain sexual trafficking of a child);

(5) Section 43.05(a)(2), Penal Code (compelling prostitution by a child); or

(6) Section 21.11, Penal Code (indecency with a child).

(b) A person must bring suit for personal injury not later than five years after the day the cause of action accrues if the injury arises as a result of conduct that violates:

(1) Section 22.011(a)(1), Penal Code (sexual assault);

(2) Section 22.021(a)(1)(A), Penal Code (aggravated sexual assault);

(3) Section 20A.02, Penal Code (trafficking of persons), other than conduct described by Subsection (a)(4); or

(4) Section 43.05(a)(1), Penal Code (compelling prostitution).

(c) In an action for injury resulting in death arising as a result of conduct described by Subsection (a) or (b), the cause of action accrues on the death of the injured person.

(d) A limitations period under this section is tolled for a suit on the filing of a petition by any person in an appropriate court alleging that the identity of the defendant in the suit is unknown and designating the unknown defendant as "John or Jane Doe." The person filing the petition shall proceed with due diligence to discover the identity of the defendant and amend the petition by substituting the real name of the defendant for "John or Jane Doe" not later than the 30th day after the date that the defendant is identified to the plaintiff. The limitations period begins running again on the date that the petition is amended.

Added by Acts 1995, 74th Leg., ch. 739, Sec. 1, eff. June 15, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.01, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 3.01, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 918 (H.B. 189), Sec. 1, eff. September 1, 2015.

Sec. 16.005. ACTION FOR CLOSING STREET OR ROAD. (a) A person must bring suit for any relief from the following acts not

later than two years after the day the cause of action accrues:

(1) the passage by a governing body of an incorporated city or town of an ordinance closing and abandoning, or attempting to close and abandon, all or any part of a public street or alley in the city or town, other than a state highway; or

(2) the adoption by a commissioners court of an order closing and abandoning, or attempting to close and abandon, all or any part of a public road or thoroughfare in the county, other than a state highway.

(b) The cause of action accrues when the order or ordinance is passed or adopted.

(c) If suit is not brought within the period provided by this section, the person in possession of the real property receives complete title to the property by limitations and the right of the city or county to revoke or rescind the order or ordinance is barred.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.006. CARRIERS OF PROPERTY. (a) A carrier of property for compensation or hire must bring suit for the recovery of charges not later than three years after the day on which the cause of action accrues.

(b) Except as provided by Subsections (c) and (d), a person must bring suit for overcharges against a carrier of property for compensation or hire not later than three years after the cause of action accrues.

(c) If the person has presented a written claim for the overcharges within the three-year period, the limitations period is extended for six months from the date written notice is given by the carrier to the claimant of disallowance of the claim in whole or in part, as specified in the carrier's notice.

(d) If on or before the expiration of the three-year period, the carrier brings an action under Subsection (a) to recover charges relating to the service or, without beginning an action, collects charges relating to that service, the limitations period is extended for 90 days from the day on which the action is begun or the charges are collected.

(e) A cause of action regarding a shipment of property accrues on the delivery or tender of the property by the carrier.

(f) In this section, "overcharge" means a charge for transportation services in excess of the lawfully applicable amount.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.007. RETURN OF EXECUTION. A person must bring suit against a sheriff or other officer or the surety of the sheriff or officer for failure to return an execution issued in the person's favor, not later than five years after the date on which the execution was returnable.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.008. ARCHITECTS, ENGINEERS, INTERIOR DESIGNERS, AND LANDSCAPE ARCHITECTS FURNISHING DESIGN, PLANNING, OR INSPECTION OF CONSTRUCTION OF IMPROVEMENTS. (a) A person must bring suit for damages for a claim listed in Subsection (b) against a registered or licensed architect, engineer, interior designer, or landscape architect in this state, who designs, plans, or inspects the construction of an improvement to real property or equipment attached to real property, not later than 10 years after the substantial completion of the improvement or the beginning of operation of the equipment in an action arising out of a defective or unsafe condition of the real property, the improvement, or the equipment.

(b) This section applies to suit for:

(1) injury, damage, or loss to real or personal property;

(2) personal injury;

(3) wrongful death;

(4) contribution; or

(5) indemnity.

(c) If the claimant presents a written claim for damages, contribution, or indemnity to the architect, engineer, interior designer, or landscape architect within the 10-year limitations period, the period is extended for two years from the day the claim

is presented.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 860, Sec. 1, eff. Sept. 1, 1997.

Sec. 16.009. PERSONS FURNISHING CONSTRUCTION OR REPAIR OF IMPROVEMENTS. (a) A claimant must bring suit for damages for a claim listed in Subsection (b) against a person who constructs or repairs an improvement to real property not later than 10 years after the substantial completion of the improvement in an action arising out of a defective or unsafe condition of the real property or a deficiency in the construction or repair of the improvement.

(b) This section applies to suit for:

(1) injury, damage, or loss to real or personal property;

(2) personal injury;

(3) wrongful death;

(4) contribution; or

(5) indemnity.

(c) If the claimant presents a written claim for damages, contribution, or indemnity to the person performing or furnishing the construction or repair work during the 10-year limitations period, the period is extended for two years from the date the claim is presented.

(d) If the damage, injury, or death occurs during the 10th year of the limitations period, the claimant may bring suit not later than two years after the day the cause of action accrues.

(e) This section does not bar an action:

(1) on a written warranty, guaranty, or other contract that expressly provides for a longer effective period;

(2) against a person in actual possession or control of the real property at the time that the damage, injury, or death occurs; or

(3) based on wilful misconduct or fraudulent concealment in connection with the performance of the construction or repair.

(f) This section does not extend or affect a period prescribed for bringing an action under any other law of this state.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.010. MISAPPROPRIATION OF TRADE SECRETS. (a) A person must bring suit for misappropriation of trade secrets not later than three years after the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered.

(b) A misappropriation of trade secrets that continues over time is a single cause of action and the limitations period described by Subsection (a) begins running without regard to whether the misappropriation is a single or continuing act.

Added by Acts 1997, 75th Leg., ch. 26, Sec. 1, eff. May 1, 1997.

Sec. 16.011. SURVEYORS. (a) A person must bring suit for damages arising from an injury or loss caused by an error in a survey conducted by a registered public surveyor or a licensed state land surveyor:

(1) not later than 10 years after the date the survey is completed if the survey is completed on or after September 1, 1989; or

(2) not later than September 1, 1991, or 10 years after the date the survey was completed, whichever is later, if the survey was completed before September 1, 1989.

(b) If the claimant presents a written claim for damages to the surveyor during the 10-year limitations period, the period is extended for two years from the date the claim is presented.

(c) This section is a statute of repose and is independent of any other limitations period.

Added by Acts 1989, 71st Leg., ch. 1233, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 2001, 77th Leg., ch. 1173, Sec. 1, eff. Sept. 1, 2001.

Sec. 16.012. PRODUCTS LIABILITY. (a) In this section:

(1) "Claimant," "seller," and "manufacturer" have the meanings assigned by Section 82.001.

(2) "Products liability action" means any action against a manufacturer or seller for recovery of damages or other

relief for harm allegedly caused by a defective product, whether the action is based in strict tort liability, strict products liability, negligence, misrepresentation, breach of express or implied warranty, or any other theory or combination of theories, and whether the relief sought is recovery of damages or any other legal or equitable relief, including a suit for:

(A) injury or damage to or loss of real or personal property;

(B) personal injury;

(C) wrongful death;

(D) economic loss; or

(E) declaratory, injunctive, or other equitable relief.

(b) Except as provided by Subsections (c), (d), and (d-1), a claimant must commence a products liability action against a manufacturer or seller of a product before the end of 15 years after the date of the sale of the product by the defendant.

(c) If a manufacturer or seller expressly warrants in writing that the product has a useful safe life of longer than 15 years, a claimant must commence a products liability action against that manufacturer or seller of the product before the end of the number of years warranted after the date of the sale of the product by that seller.

(d) This section does not apply to a products liability action seeking damages for personal injury or wrongful death in which the claimant alleges:

(1) the claimant was exposed to the product that is the subject of the action before the end of 15 years after the date the product was first sold;

(2) the claimant's exposure to the product caused the claimant's disease that is the basis of the action; and

(3) the symptoms of the claimant's disease did not, before the end of 15 years after the date of the first sale of the product by the defendant, manifest themselves to a degree and for a duration that would put a reasonable person on notice that the person suffered some injury.

(d-1) This section does not reduce a limitations period for

a cause of action described by Subsection (d) that accrues before the end of the limitations period under this section.

(e) This section does not extend the limitations period within which a products liability action involving the product may be commenced under any other law.

(f) This section applies only to the sale and not to the lease of a product.

(g) This section does not apply to any claim to which the General Aviation Revitalization Act of 1994 (Pub. L. No. 103-298, 108 Stat. 1552 (1994), reprinted in note, 49 U.S.C. Section 40101) or its exceptions are applicable.

Added by Acts 1993, 73rd Leg., ch. 5, Sec. 2, eff. Sept. 1, 1993.
Amended by Acts 2003, 78th Leg., ch. 204, Sec. 5.01, eff. Sept. 1, 2003.

SUBCHAPTER B. LIMITATIONS OF REAL PROPERTY ACTIONS

Sec. 16.021. DEFINITIONS. In this subchapter:

(1) "Adverse possession" means an actual and visible appropriation of real property, commenced and continued under a claim of right that is inconsistent with and is hostile to the claim of another person.

(2) "Color of title" means a consecutive chain of transfers to the person in possession that:

(A) is not regular because of a muniment that is not properly recorded or is only in writing or because of a similar defect that does not want of intrinsic fairness or honesty; or

(B) is based on a certificate of headright, land warrant, or land scrip.

(3) "Peaceable possession" means possession of real property that is continuous and is not interrupted by an adverse suit to recover the property.

(4) "Title" means a regular chain of transfers of real property from or under the sovereignty of the soil.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.022. EFFECT OF DISABILITY. (a) For the purposes of

this subchapter, a person is under a legal disability if the person is:

(1) younger than 18 years of age, regardless of whether the person is married;

(2) of unsound mind; or

(3) serving in the United States Armed Forces during time of war.

(b) If a person entitled to sue for the recovery of real property or entitled to make a defense based on the title to real property is under a legal disability at the time title to the property vests or adverse possession commences, the time of the disability is not included in a limitations period.

(c) Except as provided by Sections 16.027 and 16.028, after the termination of the legal disability, a person has the same time to present a claim that is allowed to others under this chapter.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 1049, Sec. 57, eff. Sept. 1, 1987.

Sec. 16.023. TACKING OF SUCCESSIVE INTERESTS. To satisfy a limitations period, peaceable and adverse possession does not need to continue in the same person, but there must be privity of estate between each holder and his successor.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.024. ADVERSE POSSESSION: THREE-YEAR LIMITATIONS PERIOD. A person must bring suit to recover real property held by another in peaceable and adverse possession under title or color of title not later than three years after the day the cause of action accrues.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.025. ADVERSE POSSESSION: FIVE-YEAR LIMITATIONS PERIOD. (a) A person must bring suit not later than five years after the day the cause of action accrues to recover real property held in peaceable and adverse possession by another who:

(1) cultivates, uses, or enjoys the property;

(2) pays applicable taxes on the property; and

(3) claims the property under a duly registered deed.

(b) This section does not apply to a claim based on a forged deed or a deed executed under a forged power of attorney.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.026. ADVERSE POSSESSION: 10-YEAR LIMITATIONS PERIOD. (a) A person must bring suit not later than 10 years after the day the cause of action accrues to recover real property held in peaceable and adverse possession by another who cultivates, uses, or enjoys the property.

(b) Without a title instrument, peaceable and adverse possession is limited in this section to 160 acres, including improvements, unless the number of acres actually enclosed exceeds 160. If the number of enclosed acres exceeds 160 acres, peaceable and adverse possession extends to the real property actually enclosed.

(c) Peaceable possession of real property held under a duly registered deed or other memorandum of title that fixes the boundaries of the possessor's claim extends to the boundaries specified in the instrument.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 764, Sec. 1, eff. Sept. 1, 1989.

Sec. 16.027. ADVERSE POSSESSION: 25-YEAR LIMITATIONS PERIOD NOTWITHSTANDING DISABILITY. A person, regardless of whether the person is or has been under a legal disability, must bring suit not later than 25 years after the day the cause of action accrues to recover real property held in peaceable and adverse possession by another who cultivates, uses, or enjoys the property.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.028. ADVERSE POSSESSION WITH RECORDED INSTRUMENT: 25-YEAR LIMITATIONS PERIOD. (a) A person, regardless of whether the person is or has been under a legal disability, may not maintain an action for the recovery of real property held for 25 years before the commencement of the action in peaceable and adverse possession by another who holds the property in good faith and under a deed or

other instrument purporting to convey the property that is recorded in the deed records of the county where any part of the real property is located.

(b) Adverse possession of any part of the real property held under a recorded deed or other recorded instrument that purports to convey the property extends to and includes all of the property described in the instrument, even though the instrument is void on its face or in fact.

(c) A person who holds real property and claims title under this section has a good and marketable title to the property regardless of a disability arising at any time in the adverse claimant or a person claiming under the adverse claimant.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.029. EVIDENCE OF TITLE TO LAND BY LIMITATIONS. (a) In a suit involving title to real property that is not claimed by this state, it is prima facie evidence that the title to the property has passed from the person holding apparent record title to an opposing party if it is shown that:

(1) for one or more years during the 25 years preceding the filing of the suit the person holding apparent record title to the property did not exercise dominion over or pay taxes on the property; and

(2) during that period the opposing parties and those whose estate they own have openly exercised dominion over and have asserted a claim to the land and have paid taxes on it annually before becoming delinquent for as long as 25 years.

(b) This section does not affect a statute of limitations, a right to prove title by circumstantial evidence under the case law of this state, or a suit between a trustee and a beneficiary of the trust.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.030. TITLE THROUGH ADVERSE POSSESSION. (a) If an action for the recovery of real property is barred under this chapter, the person who holds the property in peaceable and adverse possession has full title, precluding all claims.

(b) A person may not acquire through adverse possession any right or title to real property dedicated to public use.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.031. ENCLOSED LAND. (a) A tract of land that is owned by one person and that is entirely surrounded by land owned, claimed, or fenced by another is not considered enclosed by a fence that encloses any part of the surrounding land.

(b) Possession of the interior tract by the owner or claimant of the surrounding land is not peaceable and adverse possession as described by Section 16.026 unless:

(1) the interior tract is separated from the surrounding land by a fence; or

(2) at least one-tenth of the interior tract is cultivated and used for agricultural purposes or is used for manufacturing purposes.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.032. ADJACENT LAND. Possession of land that belongs to another by a person owning or claiming 5,000 or more fenced acres that adjoin the land is not peaceable and adverse as described by Section 16.026 unless:

(1) the land is separated from the adjacent enclosed tract by a substantial fence;

(2) at least one-tenth of the land is cultivated and used for agricultural purposes or used for manufacturing purposes; or

(3) there is actual possession of the land.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.033. TECHNICAL DEFECTS IN INSTRUMENT. (a) A person with a right of action for the recovery of real property or an interest in real property conveyed by an instrument with one of the following defects must bring suit not later than two years after the day the instrument was filed for record with the county clerk of the county where the real property is located:

(1) lack of the signature of a proper corporate

officer, partner, or company officer, manager, or member;

(2) lack of a corporate seal;

(3) failure of the record to show the corporate seal used;

(4) failure of the record to show authority of the board of directors or stockholders of a corporation, partners of a partnership, or officers, managers, or members of a company;

(5) execution and delivery of the instrument by a corporation, partnership, or other company that had been dissolved, whose charter had expired, or whose franchise had been canceled, withdrawn, or forfeited;

(6) acknowledgment of the instrument in an individual, rather than a representative or official, capacity;

(7) execution of the instrument by a trustee without record of the authority of the trustee or proof of the facts recited in the instrument;

(8) failure of the record or instrument to show an acknowledgment or jurat that complies with applicable law; or

(9) wording of the stated consideration that may or might create an implied lien in favor of the grantor.

(b) This section does not apply to a forged instrument.

(c) For the purposes of this section, an instrument affecting real property containing a ministerial defect, omission, or informality in the certificate of acknowledgment that has been filed for record for longer than two years in the office of the county recorder of the county in which the property is located is considered to have been lawfully recorded and to be notice of the existence of the instrument on and after the date the instrument is filed.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 291, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 819 (S.B. 1781), Sec. 1, eff. June 15, 2007.

Sec. 16.034. ATTORNEY'S FEES. (a) In a suit for the possession of real property between a person claiming under record

title to the property and one claiming by adverse possession, if the prevailing party recovers possession of the property from a person unlawfully in actual possession, the court:

(1) shall award costs and reasonable attorney's fees to the prevailing party if the court finds that the person unlawfully in actual possession made a claim of adverse possession that was groundless and made in bad faith; and

(2) may award costs and reasonable attorney's fees to the prevailing party in the absence of a finding described by Subdivision (1).

(b) To recover attorney's fees, the person seeking possession must give the person unlawfully in possession a written demand for that person to vacate the premises. The demand must be given by registered or certified mail at least 10 days before filing the claim for recovery of possession.

(c) The demand must state that if the person unlawfully in possession does not vacate the premises within 10 days and a claim is filed by the person seeking possession, the court may enter a judgment against the person unlawfully in possession for costs and attorney's fees in an amount determined by the court to be reasonable.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 901 (H.B. 556), Sec. 1, eff. September 1, 2009.

Sec. 16.035. LIEN ON REAL PROPERTY. (a) A person must bring suit for the recovery of real property under a real property lien or the foreclosure of a real property lien not later than four years after the day the cause of action accrues.

(b) A sale of real property under a power of sale in a mortgage or deed of trust that creates a real property lien must be made not later than four years after the day the cause of action accrues.

(c) The running of the statute of limitations is not suspended against a bona fide purchaser for value, a lienholder, or a lessee who has no notice or knowledge of the suspension of the

limitations period and who acquires an interest in the property when a cause of action on an outstanding real property lien has accrued for more than four years, except as provided by:

(1) Section 16.062, providing for suspension in the event of death; or

(2) Section 16.036, providing for recorded extensions of real property liens.

(d) On the expiration of the four-year limitations period, the real property lien and a power of sale to enforce the real property lien become void.

(e) If a series of notes or obligations or a note or obligation payable in installments is secured by a real property lien, the four-year limitations period does not begin to run until the maturity date of the last note, obligation, or installment.

(f) The limitations period under this section is not affected by Section 3.118, Business & Commerce Code.

(g) In this section, "real property lien" means:

(1) a superior title retained by a vendor in a deed of conveyance or a purchase money note; or

(2) a vendor's lien, a mortgage, a deed of trust, a voluntary mechanic's lien, or a voluntary materialman's lien on real estate, securing a note or other written obligation.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 219, Sec. 1, eff. May 23, 1997.

Sec. 16.036. EXTENSION OF REAL PROPERTY LIEN. (a) The party or parties primarily liable for a debt or obligation secured by a real property lien, as that term is defined in Section 16.035, may suspend the running of the four-year limitations period for real property liens through a written extension agreement as provided by this section.

(b) The limitations period is suspended and the lien remains in effect for four years after the extended maturity date of the debt or obligation if the extension agreement is:

(1) signed and acknowledged as provided by law for a deed conveying real property; and

(2) filed for record in the county clerk's office of

the county where the real property is located.

(c) The parties may continue to extend the lien by entering, acknowledging, and recording additional extension agreements.

(d) The maturity date stated in the original instrument or in the date of the recorded renewal and extension is conclusive evidence of the maturity date of the debt or obligation.

(e) The limitations period under this section is not affected by Section 3.118, Business & Commerce Code.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 219, Sec. 2, eff. May 23, 1997.

Sec. 16.037. EFFECT OF EXTENSION OF REAL PROPERTY LIEN ON THIRD PARTIES. An extension agreement is void as to a bona fide purchaser for value, a lienholder, or a lessee who deals with real property affected by a real property lien without actual notice of the agreement and before the agreement is acknowledged, filed, and recorded.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1997, 75th Leg., ch. 219, Sec. 3, eff. May 23, 1997.

Sec. 16.038. RESCISSION OR WAIVER OF ACCELERATED MATURITY DATE. (a) If the maturity date of a series of notes or obligations or a note or obligation payable in installments is accelerated, and the accelerated maturity date is rescinded or waived in accordance with this section before the limitations period expires, the acceleration is deemed rescinded and waived and the note, obligation, or series of notes or obligations shall be governed by Section 16.035 as if no acceleration had occurred.

(b) Rescission or waiver of acceleration is effective if made by a written notice of a rescission or waiver served as provided in Subsection (c) by the lienholder, the servicer of the debt, or an attorney representing the lienholder on each debtor who, according to the records of the lienholder or the servicer of the debt, is obligated to pay the debt.

(c) Service of a notice under Subsection (b) must be by first class or certified mail and is complete when the notice is deposited in the United States mail, postage prepaid and addressed

to the debtor at the debtor's last known address. The affidavit of a person knowledgeable of the facts to the effect that service was completed is prima facie evidence of service.

(d) A notice served under this section does not affect a lienholder's right to accelerate the maturity date of the debt in the future nor does it waive past defaults.

(e) This section does not create an exclusive method for waiver and rescission of acceleration or affect the accrual of a cause of action and the running of the related limitations period under Section 16.035(e) on any subsequent maturity date, accelerated or otherwise, of the note or obligation or series of notes or obligations.

Added by Acts 2015, 84th Leg., R.S., Ch. 759 (H.B. 2067), Sec. 1, eff. June 17, 2015.

SUBCHAPTER C. RESIDUAL LIMITATIONS PERIOD

Sec. 16.051. RESIDUAL LIMITATIONS PERIOD. Every action for which there is no express limitations period, except an action for the recovery of real property, must be brought not later than four years after the day the cause of action accrues.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER D. MISCELLANEOUS PROVISIONS

Sec. 16.061. RIGHTS NOT BARRED. (a) A right of action of this state or a political subdivision of the state, including a county, an incorporated city or town, a navigation district, a municipal utility district, a port authority, an entity acting under Chapter 54, Transportation Code, a school district, or an entity created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, is not barred by any of the following sections: 16.001-16.004, 16.006, 16.007, 16.021-16.028, 16.030-16.032, 16.035-16.037, 16.051, 16.062, 16.063, 16.065-16.067, 16.070, 16.071, 31.006, or 71.021.

(b) In this section:

(1) "Navigation district" means a navigation district

organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(2) "Port authority" has the meaning assigned by Section 60.402, Water Code.

(3) "Municipal utility district" means a municipal utility district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 2, Sec. 4.02, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 782, Sec. 1, eff. Aug. 30, 1993; Acts 1997, 75th Leg., ch. 1070, Sec. 47, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1420, Sec. 8.204, eff. Sept. 1, 2001.

Sec. 16.062. EFFECT OF DEATH. (a) The death of a person against whom or in whose favor there may be a cause of action suspends the running of an applicable statute of limitations for 12 months after the death.

(b) If an executor or administrator of a decedent's estate qualifies before the expiration of the period provided by this section, the statute of limitations begins to run at the time of the qualification.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.063. TEMPORARY ABSENCE FROM STATE. The absence from this state of a person against whom a cause of action may be maintained suspends the running of the applicable statute of limitations for the period of the person's absence.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.064. EFFECT OF LACK OF JURISDICTION. (a) The period between the date of filing an action in a trial court and the date of a second filing of the same action in a different court suspends the running of the applicable statute of limitations for the period if:

(1) because of lack of jurisdiction in the trial court where the action was first filed, the action is dismissed or the judgment is set aside or annulled in a direct proceeding; and

(2) not later than the 60th day after the date the dismissal or other disposition becomes final, the action is commenced in a court of proper jurisdiction.

(b) This section does not apply if the adverse party has shown in abatement that the first filing was made with intentional disregard of proper jurisdiction.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.065. ACKNOWLEDGMENT OF CLAIM. An acknowledgment of the justness of a claim that appears to be barred by limitations is not admissible in evidence to defeat the law of limitations if made after the time that the claim is due unless the acknowledgment is in writing and is signed by the party to be charged.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.066. ACTION ON FOREIGN JUDGMENT. (a) An action on a foreign judgment is barred in this state if the action is barred under the laws of the jurisdiction where rendered.

(b) An action against a person who has resided in this state for 10 years prior to the action may not be brought on a foreign judgment rendered more than 10 years before the commencement of the action in this state.

(c) In this section "foreign judgment" means a judgment or decree rendered in another state or a foreign country.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.067. CLAIM INCURRED PRIOR TO ARRIVAL IN THIS STATE. (a) A person may not bring an action to recover a claim against a person who has moved to this state if the claim is barred by the law of limitations of the state or country from which the person came.

(b) A person may not bring an action to recover money from a person who has moved to this state and who was released from its payment by the bankruptcy or insolvency laws of the state or country from which the person came.

(c) A demand that is against a person who has moved to this state and was incurred prior to his arrival in this state is not barred by the law of limitations until the person has lived in this

state for 12 months. This subsection does not affect the application of Subsections (a) and (b).

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.068. AMENDED AND SUPPLEMENTAL PLEADINGS. If a filed pleading relates to a cause of action, cross action, counterclaim, or defense that is not subject to a plea of limitation when the pleading is filed, a subsequent amendment or supplement to the pleading that changes the facts or grounds of liability or defense is not subject to a plea of limitation unless the amendment or supplement is wholly based on a new, distinct, or different transaction or occurrence.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.069. COUNTERCLAIM OR CROSS CLAIM. (a) If a counterclaim or cross claim arises out of the same transaction or occurrence that is the basis of an action, a party to the action may file the counterclaim or cross claim even though as a separate action it would be barred by limitation on the date the party's answer is required.

(b) The counterclaim or cross claim must be filed not later than the 30th day after the date on which the party's answer is required.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.

Sec. 16.070. CONTRACTUAL LIMITATIONS PERIOD. (a) Except as provided by Subsection (b), a person may not enter a stipulation, contract, or agreement that purports to limit the time in which to bring suit on the stipulation, contract, or agreement to a period shorter than two years. A stipulation, contract, or agreement that establishes a limitations period that is shorter than two years is void in this state.

(b) This section does not apply to a stipulation, contract, or agreement relating to the sale or purchase of a business entity if a party to the stipulation, contract, or agreement pays or receives or is obligated to pay or entitled to receive consideration under the stipulation, contract, or agreement having

an aggregate value of not less than $500,000.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 840, Sec. 2, eff. Aug. 26, 1991.

Sec. 16.071. NOTICE REQUIREMENTS. (a) A contract stipulation that requires a claimant to give notice of a claim for damages as a condition precedent to the right to sue on the contract is not valid unless the stipulation is reasonable. A stipulation that requires notification within less than 90 days is void.

(b) If notice is required, the claimant may notify any convenient agent of the company that requires the notice.

(c) A contract stipulation between the operator of a railroad, street railway, or interurban railroad and an employee or servant of the operator is void if it requires as a condition precedent to liability:

(1) the employee or servant to notify the system of a claim for damages for personal injury caused by negligence; or

(2) the spouse, parent, or child of a deceased employee or servant to notify the system of a claim of death caused by negligence.

(d) This section applies to a contract between a federal prime contractor and a subcontractor, except that the notice period stipulated in the subcontract may be for a period not less than the period stipulated in the prime contract, minus seven days.

(e) In a suit covered by this section or Section 16.070, it is presumed that any required notice has been given unless lack of notice is specifically pleaded under oath.

(f) This section does not apply to a contract relating to the sale or purchase of a business entity if a party to the contract pays or receives or is obligated to pay or receive consideration under the contract having an aggregate value of not less than $500,000.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1991, 72nd Leg., ch. 840, Sec. 3, eff. Aug. 26, 1991.

Sec. 16.072. SATURDAY, SUNDAY, OR HOLIDAY. If the last day of a limitations period under any statute of limitations falls on a

Saturday, Sunday, or holiday, the period for filing suit is extended to include the next day that the county offices are open for business.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985.