

TITLE VIII

LIMITATIONS

CHAPTER 95

LIMITATIONS OF ACTIONS; ADVERSE POSSESSION

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95.011 Applicability.—A civil action or proceeding, called "action" in this chapter, including one brought by the state, a public officer, a political subdivision of the state, a municipality, a public corporation or body corporate, or any agency or officer of any of them, or any other governmental authority, shall be barred unless begun within the time prescribed in this chapter or, if a different time is prescribed elsewhere in these statutes, within the time prescribed elsewhere.

History.—s. 1, ch. 74-382; s. 1, ch. 77-174.

95.022 Effective date; saving clause.—This act shall become effective on January 1, 1975, but any action that will be barred when this act becomes effec-

tive and that would not have been barred under prior law may be commenced before January 1, 1976, and if it is not commenced by that date, the action shall be barred.

History.—s. 36, ch. 74-382.

95.03 Contracts shortening time.—Any provision in a contract fixing the period of time within which an action arising out of the contract may be begun at a time less than that provided by the applicable statute of limitations is void.

History.—ss. 1, 2, ch. 6465, 1913; RGS 2931; CGL 4651; s. 2, ch. 74-382.

95.031 Computation of time.—Except as provided in subsection (2) and in s. 95.051 and elsewhere in these statutes, the time within which an action shall be begun under any statute of limitations runs from the time the cause of action accrues.

(1) A cause of action accrues when the last element constituting the cause of action occurs. For the purposes of this chapter, the last element constituting a cause of action on an obligation or liability founded on a negotiable or nonnegotiable note payable on demand or after date with no specific maturity date specified in the note, and the last element constituting a cause of action against any endorser, guarantor, or other person secondarily liable on any such obligation or liability founded on any such note, is the first written demand for payment, notwithstanding that the endorser, guarantor, or other person secondarily liable has executed a separate writing evidencing such liability.

(2) Actions for products liability and fraud under s. 95.11(3) must be begun within the period prescribed in this chapter, with the period running from the time the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, instead of running from any date prescribed elsewhere in s. 95.11(3), but in any event an action for fraud under s. 95.11(3) must be begun within 12 years after the date of the commission of the alleged fraud, regardless of the date the fraud was or should have been discovered.

History.—s. 3, ch. 74-382; s. 1, ch. 75-234; s. 2, ch. 77-54; ss. 1, 2, ch. 78-289; s. 1, ch. 78-418; s. 1, ch. 80-280; s. 44, ch. 81-259; s. 10, ch. 85-80; s. 2, ch. 86-272; s. 2, ch. 90-105.

95.04 Promise to pay barred debt.—An acknowledgment of, or promise to pay, a debt barred by a statute of limitations must be in writing and signed by the person sought to be charged.

History.—s. 1, ch. 4375, 1895; GS 1717; RGS 2930; CGL 4650; s. 6, ch. 74-382.

95.051 When limitations tolled.—

(1) The running of the time under any statute of limitations except ss. 95.281, 95.35, and 95.36 is tolled by:

- (a) Absence from the state of the person to be sued.
- (b) Use by the person to be sued of a false name that is unknown to the person entitled to sue so that process cannot be served on the person to be sued.
- (c) Concealment in the state of the person to be sued so that process cannot be served on him or her.
- (d) The adjudicated incapacity, before the cause of action accrued, of the person entitled to sue. In any event, the action must be begun within 7 years after the act, event, or occurrence giving rise to the cause of action.
- (e) Voluntary payments by the alleged father of the child in paternity actions during the time of the payments.
- (f) The payment of any part of the principal or interest of any obligation or liability founded on a written instrument.
- (g) The pendency of any arbitral proceeding pertaining to a dispute that is the subject of the action.
- (h) The minority or previously adjudicated incapacity of the person entitled to sue during any period of time in which a parent, guardian, or guardian ad litem does not exist, has an interest adverse to the minor or incapacitated person, or is adjudicated to be incapacitated to sue; except with respect to the statute of limitations for a claim for medical malpractice as provided in s. 95.11. In any event, the action must be begun within 7 years after the act, event, or occurrence giving rise to the cause of action.

Paragraphs (a)–(c) shall not apply if service of process or service by publication can be made in a manner sufficient to confer jurisdiction to grant the relief sought. This section shall not be construed to limit the ability of any person to initiate an action within 30 days of the lifting of an automatic stay issued in a bankruptcy action as is provided in 11 U.S.C. s. 108(c).

(2) No disability or other reason shall toll the running of any statute of limitations except those specified in this section, s. 95.091, the Florida Probate Code, or the Florida Guardianship Law.

History.—s. 16, Nov. 10, 1828; ss. 14, 17, ch. 1869, 1872; RS 1284, 1285; GS 1715, 1716; RGS 2928, 2929; CGL 4648, 4649; s. 4, ch. 74-382; s. 2, ch. 75-234; s. 1, ch. 77-174; s. 3, ch. 86-266; s. 1, ch. 89-26; s. 1, ch. 90-105; s. 519, ch. 95-147.

Note.—Former ss. 95.05, 95.07.

95.091 Limitation on actions to collect taxes.—

(1)(a) Except in the case of taxes for which certificates have been sold or of taxes enumerated in s. 72.011, any tax lien granted by law to the state or any of its political subdivisions, any municipality, any public corporation or body politic, or any other entity having authority to levy and collect taxes shall expire 5 years after the date the tax is assessed or becomes delinquent, whichever is later. No action may be begun to collect any tax after the expiration of the lien securing the payment of the tax.

(b) Any tax lien granted by law to the state or any of its political subdivisions for any tax enumerated in s. 72.011 shall expire 20 years after the last date the tax may be assessed, after the tax becomes delinquent, or

after the filing of a tax warrant, whichever is later. An action to collect any tax enumerated in s. 72.011 may not be commenced after the expiration of the lien securing the payment of the tax.

(2) If no lien to secure the payment of a tax is provided by law, no action may be begun to collect the tax after 5 years from the date the tax is assessed or becomes delinquent, whichever is later.

(3)(a)1. With the exception of taxes levied under chapter 198 and tax adjustments made pursuant to s. 220.23, the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer and the Department of Business and Professional Regulation may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer:

- a. Within 5 years after the date the tax is due, any return with respect to the tax is due, or such return is filed, whichever occurs later;
- b. Within 6 years after the date the taxpayer either makes a substantial underpayment of tax, or files a substantially incorrect return;
- c. At any time while the right to a refund or credit of the tax is available to the taxpayer;
- d. At any time after the taxpayer has failed to make any required payment of the tax, has failed to file a required return, or has filed a grossly false or fraudulent return; or
- e. In any case in which there has been a refund of tax erroneously made for any reason, within 5 years after making such refund, or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

2. For the purpose of this paragraph, a tax return filed before the last day prescribed by law, including any extension thereof, shall be deemed to have been filed on such last day, and payments made prior to the last day prescribed by law shall be deemed to have been paid on such last day.

(b) The limitations in this subsection shall be tolled for a period of 2 years if the Department of Revenue has issued a notice of intent to conduct an audit or investigation of the taxpayer's account within the applicable period of time as specified in this subsection. The department shall commence an audit within 120 days after it issues a notice of intent to conduct an audit, unless the taxpayer requests a delay. If the taxpayer does not request a delay and the department does not begin the audit within 120 days after issuing the notice, the tolling period shall terminate.

(4) If administrative or judicial proceedings for review of the tax assessment or collection are begun within a period of limitation prescribed in this section, the running of the period shall be tolled during the pendency of the proceeding. Administrative proceedings shall include taxpayer protest proceedings initiated under s. 213.21 and department rules.

History.—s. 20, ch. 74-382; s. 37, ch. 85-342; s. 49, ch. 87-6; ss. 29, 66, ch. 87-101; s. 4, ch. 88-119; s. 19, ch. 92-315; s. 25, ch. 94-353.

95.10 Causes of action arising out of the state.—

When the cause of action arose in another state or territory of the United States, or in a foreign country, and its laws forbid the maintenance of the action because of lapse of time, no action shall be maintained in this state.

History.—s. 18, ch. 1869, 1872; RS 1295; GS 1726; RGS 2940; CGL 4664; s. 5, ch. 74-382.

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(1) **WITHIN TWENTY YEARS.**—An action on a judgment or decree of a court of record in this state.

(2) **WITHIN FIVE YEARS.**—

(a) An action on a judgment or decree of any court, not of record, of this state or any court of the United States, any other state or territory in the United States, or a foreign country.

(b) A legal or equitable action on a contract, obligation, or liability founded on a written instrument.

(c) An action to foreclose a mortgage.

(3) **WITHIN FOUR YEARS.**—

(a) An action founded on negligence.

(b) An action relating to the determination of paternity, with the time running from the date the child reaches the age of majority.

(c) An action founded on the design, planning, or construction of an improvement to real property, with the time running from the date of actual possession by the owner, the date of the issuance of a certificate of occupancy, the date of abandonment of construction if not completed, or the date of completion or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is latest; except that, when the action involves a latent defect, the time runs from the time the defect is discovered or should have been discovered with the exercise of due diligence. In any event, the action must be commenced within 15 years after the date of actual possession by the owner, the date of the issuance of a certificate of occupancy, the date of abandonment of construction if not completed, or the date of completion or termination of the contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is latest.

(d) An action to recover public money or property held by a public officer or employee, or former public officer or employee, and obtained during, or as a result of, his or her public office or employment.

(e) An action for injury to a person founded on the design, manufacture, distribution, or sale of personal property that is not permanently incorporated in an improvement to real property, including fixtures.

(f) An action founded on a statutory liability.

(g) An action for trespass on real property.

(h) An action for taking, detaining, or injuring personal property.

(i) An action to recover specific personal property.

(j) A legal or equitable action founded on fraud.

(k) A legal or equitable action on a contract, obligation, or liability not founded on a written instrument, including an action for the sale and delivery of goods, wares, and merchandise, and on store accounts.

(l) An action to rescind a contract.

(m) An action for money paid to any governmental authority by mistake or inadvertence.

(n) An action for a statutory penalty or forfeiture.

(o) An action for assault, battery, false arrest, malicious prosecution, malicious interference, false imprisonment, or any other intentional tort, except as provided in subsections (4), (5), and (7).

(p) Any action not specifically provided for in these statutes.

(4) **WITHIN TWO YEARS.**—

(a) An action for professional malpractice, other than medical malpractice, whether founded on contract or tort; provided that the period of limitations shall run from the time the cause of action is discovered or should have been discovered with the exercise of due diligence. However, the limitation of actions herein for professional malpractice shall be limited to persons in privity with the professional.

(b) An action for medical malpractice shall be commenced within 2 years from the time the incident giving rise to the action occurred or within 2 years from the time the incident is discovered, or should have been discovered with the exercise of due diligence; however, in no event shall the action be commenced later than 4 years from the date of the incident or occurrence out of which the cause of action accrued. An "action for medical malpractice" is defined as a claim in tort or in contract for damages because of the death, injury, or monetary loss to any person arising out of any medical, dental, or surgical diagnosis, treatment, or care by any provider of health care. The limitation of actions within this subsection shall be limited to the health care provider and persons in privity with the provider of health care. In those actions covered by this paragraph in which it can be shown that fraud, concealment, or intentional misrepresentation of fact prevented the discovery of the injury within the 4-year period, the period of limitations is extended forward 2 years from the time that the injury is discovered or should have been discovered with the exercise of due diligence, but in no event to exceed 7 years from the date the incident giving rise to the injury occurred.

(c) An action to recover wages or overtime or damages or penalties concerning payment of wages and overtime.

(d) An action for wrongful death.

(e) An action founded upon a violation of any provision of chapter 517, with the period running from the time the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 5 years from the date such violation occurred.

(f) An action for personal injury caused by contact with or exposure to phenoxy herbicides while serving either as a civilian or as a member of the Armed Forces of the United States during the period January 1, 1962, through May 7, 1975; the period of limitations shall run from the time the cause of action is discovered or should have been discovered with the exercise of due diligence.

(g) An action for libel or slander.

(5) **WITHIN ONE YEAR.**—

(a) An action for specific performance of a contract.

(b) An action to enforce an equitable lien arising from the furnishing of labor, services, or material for the improvement of real property.

(c) An action to enforce rights under the Uniform Commercial Code—Bulk Transfers.

(d) An action against any guaranty association and its insured, with the period running from the date of the deadline for filing claims in the order of liquidation.

(e) An action to enforce any claim against a payment bond on which the principal is a subcontractor or subcontractor as defined in s. 713.01, for private work as well as public work, from the last furnishing of labor, services, or materials or from the last furnishing of labor, services, or materials by the general contractor if the general contractor is the principal on a bond on the same construction project, whichever is later.

(6) LACHES.—Laches shall bar any action unless it is commenced within the time provided for legal actions concerning the same subject matter regardless of lack of knowledge by the person sought to be held liable that the person alleging liability would assert his or her rights and whether the person sought to be held liable is injured or prejudiced by the delay. This subsection shall not affect application of laches at an earlier time in accordance with law.

(7) FOR INTENTIONAL TORTS BASED ON ABUSE. An action founded on alleged abuse, as defined in s. 39.01 or s. 415.102, or incest, as defined in s. 826.04, may be commenced at any time within 7 years after the age of majority, or within 4 years after the injured person leaves the dependency of the abuser, or within 4 years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the abuse, whichever occurs later.

(8) WITHIN 30 DAYS FOR ACTIONS CHALLENGING CORRECTIONAL DISCIPLINARY PROCEEDINGS.—Any court action challenging prisoner disciplinary proceedings conducted by the Department of Corrections pursuant to s. 944.28(2) must be commenced within 30 days after final disposition of the prisoner disciplinary proceedings through the administrative grievance process under chapter 33, Florida Administrative Code. Any action challenging prisoner disciplinary proceedings shall be barred by the court unless it is commenced within the time period provided by this section.

History.—s. 10, ch. 1869, 1872; s. 1, ch. 3900, 1889; RS 1294; GS 1725; s. 10, ch. 7838, 1919; RGS 2939; CGL 4663; s. 1, ch. 21892, 1943; s. 7, ch. 24337, 1947; s. 24, ch. 57-1; s. 1, ch. 59-188; s. 1, ch. 67-284; s. 1, ch. 71-254; s. 30, ch. 73-333; s. 7, ch. 74-382; s. 7, ch. 75-9; s. 1, ch. 77-174; s. 11, ch. 78-435; s. 1, ch. 80-322; s. 34, ch. 83-38; s. 1, ch. 84-13; s. 1, ch. 85-63; s. 139, ch. 86-220; s. 1, ch. 86-231; s. 1, ch. 86-272; s. 1, ch. 88-397; s. 20, ch. 90-109; s. 1, ch. 92-102; s. 520, ch. 95-147; s. 2, ch. 95-283.

Note.—Chapter 676, Uniform Commercial Code: Bulk Transfers, was repealed by s. 3, ch. 93-77.

95.111 Limitations after death of a person served by publication.—In all suits or actions when a decree pro confesso or default was duly entered against a defendant on whom constructive service was duly obtained and the defendant died after the entry of the decree pro confesso or default and before the entry of final decree or judgment, and the death was not suggested to the court before the entry of the final decree or judgment, the final decree or judgment shall be binding and conclusive against persons claiming under the deceased defendant 1 year after its date as if the death

had been suggested and the suit or action revived or continued against the proper parties.

History.—s. 1, ch. 11996, 1927; CGL 4947; s. 46, ch. 67-254; s. 21, ch. 74-382.
Note.—Former s. 62.08.

95.12 Real property actions.—No action to recover real property or its possession shall be maintained unless the person seeking recovery or the person's ancestor, predecessor, or grantor was seized or possessed of the property within 7 years before the commencement of the action.

History.—s. 2, ch. 1869, 1872; RS 1287; GS 1718; RGS 2932; CGL 4652; s. 8, ch. 74-382; s. 521, ch. 95-147.

95.13 Real property actions; possession by legal owner presumed.—In every action to recover real property or its possession, the person establishing legal title to the property shall be presumed to have been possessed of it within the time prescribed by law. The occupation of the property by any other person shall be in subordination to the legal title unless the property was possessed adversely to the legal title for 7 years before the commencement of the action.

History.—s. 4, ch. 1869, 1872; RS 1289; GS 1720; RGS 2934; CGL 4654; s. 9, ch. 74-382.

95.14 Real property actions; limitation upon action founded upon title.—No cause of action or defense to an action founded on the title to real property, or to rents or service from it, shall be maintained unless:

(1) 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 the person, was seized or possessed of the real property within 7 years before commencement of the action; or

(2) Title to the real property was derived from the United States or the state within 7 years before commencement of the action. The time under this subsection shall not begin to run until the conveyance of the title from the state or the United States.

History.—s. 3, ch. 1869, 1872; RS 1288; GS 1719; RGS 2933; CGL 4653; s. 10, ch. 74-382.

95.16 Real property actions; adverse possession under color of title.—

(1) When the occupant, or those under whom the occupant claims, entered into possession of real property under a claim of title exclusive of any other right, founding the claim on a written instrument as being a conveyance of the property, or on a decree or judgment, and has for 7 years been in continued possession of the property included in the instrument, decree, or judgment, the property is held adversely. If the property is divided into lots, the possession of one lot shall not be deemed a possession of any other lot of the same tract. Adverse possession commencing after December 31, 1945, shall not be deemed adverse possession under color of title until the instrument upon which the claim of title is founded is recorded in the office of the clerk of the circuit court of the county where the property is located.

(2) For the purpose of this section, property is deemed possessed in any of the following cases:

(a) When it has been usually cultivated or improved.

(b) When it has been protected by a substantial enclosure. All land protected by the enclosure must be included within the description of the property in the written instrument, judgment, or decree. If only a portion of the land protected by the enclosure is included within the description of the property in the written instrument, judgment, or decree, only that portion is deemed possessed.

(c) When, although not enclosed, it has been used for the supply of fuel or fencing timber for husbandry or for the ordinary use of the occupant.

(d) When a known lot or single farm has been partly improved, the part that has not been cleared or enclosed according to the usual custom of the county is to be considered as occupied for the same length of time as the part improved or cultivated.

History.—s. 5, ch. 1869, 1872; RS 1290; GS 1721; RGS 2935; CGL 4655; s. 1, ch. 19253, 1939; s. 1, ch. 22897, 1945; ss. 11, 12, ch. 74-382; s. 1, ch. 77-174; s. 1, ch. 87-194; s. 522, ch. 95-147.

95.18 Real property actions; adverse possession without color of title.—

(1) When the occupant or those under whom the occupant claims have been in actual continued occupation of real property for 7 years under a claim of title exclusive of any other right, but not founded on a written instrument, judgment, or decree, the property actually occupied shall be held adversely if the person claiming adverse possession made a return of the property by proper legal description to the property appraiser of the county where it is located within 1 year after entering into possession and has subsequently paid all taxes and matured installments of special improvement liens levied against the property by the state, county, and municipality.

(2) For the purpose of this section, property shall be deemed to be possessed in the following cases only:

(a) When it has been protected by substantial enclosure.

(b) When it has been usually cultivated or improved.

History.—s. 7, ch. 1869, 1872; RS 1291; GS 1722; RGS 2936; CGL 4656; s. 1, ch. 19254, 1939; ss. 13, 14, ch. 74-382; s. 1, ch. 77-102; s. 523, ch. 95-147.

95.191 Limitations when tax deed holder in possession.—

When the holder of a tax deed goes into actual possession of the real property described in the tax deed, no action to recover possession of the property shall be maintained by a former owner or other adverse claimant unless the action commenced is begun within 4 years after the holder of the tax deed has gone into actual possession. When the real property is adversely possessed by any person, no action shall be brought by the tax deed holder unless the action is begun within 4 years from the date of the deed.

History.—s. 64, ch. 4322, 1895; GS 591; s. 61, ch. 5596, 1907; RGS 794; s. 2, ch. 12409, 1927; CGL 1020; ss. 1, 2, ch. 69-55; s. 1, ch. 72-268; s. 28, ch. 73-332; s. 1, ch. 77-174.

Note.—Former ss. 196.06, 197.725, 197.286.

95.192 Limitation upon acting against tax deeds.—

(1) When a tax deed has been issued to any person under s. 197.552 for 4 years, no action shall be brought by the former owner of the property or any claimant under the former owner.

(2) When a tax deed is issued conveying or attempting to convey real property before a patent has been

issued thereon by the United States, or before a conveyance by the state, and thereafter a patent by the United States or a conveyance by the state is issued to the person to whom the property was assessed or a claimant under him or her, and the tax deed grantee or a claimant under the tax deed grantee has paid the taxes for 4 successive years at any time after the issuance of the patent or conveyance, the patentee, or grantee, and any claimant under the patentee or grantee shall be presumed to have abandoned the property and any right, title, and interest in it. Upon such abandonment, the tax deed grantee and any claimant under the tax deed grantee is the legal owner of the property described by the tax deed.

(3) This statute applies whether the tax deed grantee or any claimant under the tax deed grantee has been in actual possession of the property described in the tax deed or not. If a tax deed has been issued to property in the actual possession of the legal owner and the legal owner or any claimant under him or her continues in actual possession 1 year after issuance of the tax deed and before an action to eject him or her is begun, subsections (1) and (2) shall not apply.

History.—s. 27, ch. 73-332; s. 201, ch. 85-342; s. 524, ch. 95-147.

95.21 Adverse possession against lands purchased at sales made by executors.—

The title of any purchaser, or the purchaser's assigns, who has held possession for 3 years of any real or personal property purchased at a sale made by an executor, administrator, or guardian shall not be questioned because of any irregularity in the conveyance or any insufficiency or irregularity in the court proceedings authorizing the sale, whether jurisdictional or not, nor shall it be questioned because the sale is made without court approval or confirmation or under a will or codicil. The title shall not be questioned at any time by anyone who has received the money to which he or she was entitled from the sale. This section shall not bar an action for fraud or an action against the executor, administrator, or guardian for personal liability to any heir, distributee, or ward.

History.—s. 1, ch. 3134, 1879; RS 1293; GS 1724; RGS 2938; CGL 4658; s. 1, ch. 20954, 1941; s. 3, ch. 22897, 1945; s. 15, ch. 74-382; s. 1, ch. 77-174; s. 525, ch. 95-147.

95.22 Limitation upon claims by remaining heirs, when deed made by one or more.—

(1) When any person owning real property or any interest in it dies and a conveyance is made by one or more of the person's heirs or devisees, purporting to convey, either singly or in the aggregate, the entire interest of the decedent in the property or any part of it, then no person shall claim or recover the property conveyed after 7 years from the date of recording the conveyance in the county where the property is located.

(2) This section shall not apply to persons whose names appear of record as devisees under the will or as the heirs in proceedings brought to determine their identity in the office of the judge administering the estate of decedent.

History.—s. 1, ch. 10168, 1925; CGL 4659; s. 14, ch. 20954, 1941; s. 15, ch. 73-334; s. 16, ch. 74-382; s. 526, ch. 95-147.

95.231 Limitations where deed or will on record.—

(1) Five years after the recording of a deed or the probate of a will purporting to convey real property, from which it appears that the person owning the property attempted to convey or devise it, the deed or will shall be held to authorize the conveyance or devise of, or to convey or devise, the fee simple title to the real property, or any interest in it, of the person signing the instrument, as if there had been no lack of seal or seals, witness or witnesses, defect in acknowledgment or relinquishment of dower, in the absence of fraud, adverse possession, or pending litigation. The instrument shall be admissible in evidence.

(2) After 20 years from the recording of a deed or the probate of a will purporting to convey real property, no person shall assert any claim to the property against the claimants under the deed or will or their successors in title.

(3) This law is cumulative to all laws on the subject matter.

History.—ss. 1, 2, ch. 10171, 1925; CGL 4660, 4661; ss. 1-4, ch. 21790, 1943; s. 35, ch. 69-216; s. 17, ch. 74-382.

Note.—Former ss. 95.23, 95.26.

95.281 Limitations; instruments encumbering real property.—

(1) The lien of a mortgage or other instrument encumbering real property, herein called mortgage, except those specified in subsection (5), shall terminate after the expiration of the following periods of time:

(a) If the final maturity of an obligation secured by a mortgage is ascertainable from the record of it, 5 years after the date of maturity.

(b) If the final maturity of an obligation secured by a mortgage is not ascertainable from the record of it, 20 years after the date of the mortgage, unless prior to such time the holder of the mortgage:

1. Rerecords the mortgage and includes a copy of the obligation secured by the mortgage so that the final maturity is ascertainable; or

2. Records a copy of the obligation secured by the mortgage from which copy the final maturity is ascertainable and by affidavit identifies the mortgage by its official recording data and certifies that the obligation is the obligation described in the mortgage;

in which case the lien shall terminate 5 years after the date of maturity.

(c) For all obligations, including taxes, paid by the mortgagee, 5 years from the date of payment. A mortgagee shall have no right of subrogation to the lien of the state for taxes paid by the mortgagee to protect the security of his or her mortgage unless he or she obtains an assignment from the state of the tax certificate. Redemption of the tax certificate shall be insufficient for subrogation.

(2) If an extension agreement executed by the mortgagee or the mortgagee's successors in interest and the mortgagor or the mortgagor's successors in interest is recorded, the time shall be extended as follows:

(a) If the final maturity of the obligation, as extended, secured by the mortgage is ascertainable from the record of the extension agreement, 5 years after the date of final maturity of the obligation as extended.

(b) If the final maturity of the obligation, as extended, secured by the mortgage is not ascertainable from the record of the extension agreement, 20 years after the date of the extension agreement, unless prior to such time the holder of the mortgage:

1. Rerecords the mortgage and includes a copy of the obligation, as extended, secured by the mortgage so that the final maturity is ascertainable; or

2. Records a copy of the obligation, as extended, secured by the mortgage from which copy the final maturity is ascertainable and by affidavit identifies the mortgage by its official recording data and certifies that the obligation is the obligation described in the mortgage;

in which case the lien shall terminate 5 years after the date of maturity as extended.

(3) If the record of the mortgage shows that it secures an obligation payable in installments and the maturity date of the final installment of the obligation is ascertainable from the record of the mortgage, the time shall run from the maturity date of the final installment.

(4) The time shall be extended only as provided in this law and shall not be extended by any other agreement, nonresidence, disability, part payment, operation of law, or any other method.

(5) This section does not apply to mortgages or deeds of trust executed by any railroad or other public utility corporation or by any receiver or trustee of them or to liens or notices of liens under chapter 713.

History.—ss. 1-7, ch. 22560, 1945; s. 1, ch. 29977, 1955; s. 18, ch. 74-382; s. 1, ch. 77-174; s. 4, ch. 83-267; s. 3, ch. 83-311; s. 527, ch. 95-147.

Note.—Former ss. 95.28-95.32.

95.35 Termination of contracts to purchase real estate in which there is no maturity date.—Whenever:

(1) Any person contracts by written agreement to purchase real property before July 1, 1972, and the final maturity of the obligation is not ascertainable from the record of the contract, or accepts an assignment of such a contract, but

(2) Even though the existence of the contract or assignment appears from the record of the instrument or by reference to it in another recorded instrument, such person has not recorded a deed to the property or a judgment recognizing the person's rights to the property and is not in actual possession of the property as defined in s. 95.16, then

the person and those claiming under the person shall have no further interest in the property by virtue of the contract or assignment. In these circumstances, the record of the contract or assignment, or other record reference to either, shall no longer constitute actual or constructive notice to any person acquiring any interest in the property.

History.—s. 1, ch. 24292, 1947; s. 19, ch. 74-382; s. 1, ch. 77-174; s. 528, ch. 95-147.

95.36 Dedications to municipalities or counties for park purposes.—

(1) Dedications of land to municipalities or counties for park purposes that have been recorded for 30 years shall not be challenged by the dedicator or any other person when the land has been put to some municipal

or county use during the period of dedication or has been conveyed by the municipality or county by a deed recorded for 7 years, and all rights of the dedicator and all other persons in the land are terminated.

(2) When dedications of land to municipalities or counties for park purposes have been put to some municipal or county use, the dedication was accepted by written instrument or by actions constituting acceptance, and the municipality or county vacates the park and the ordinance or resolution vacating it recites that the municipality or county is surrendering all of its title to the dedicated land, the fee simple title shall not be challenged in any action by any person, except in cases of fraud, and the rights of all persons except the owner of the fee simple title are terminated.

(3) Any funds accruing to a municipality or county from the sale of dedicated lands pursuant to this section shall be used for park purposes.

History.—s. 1, ch. 25503, 1949; s. 1, ch. 70-337; s. 24, ch. 74-382; s. 1, ch. 89-28.

95.361 Roads presumed to be dedicated.—

(1) When a road, constructed by a county, a municipality, or the Department of Transportation, has been maintained or repaired continuously and uninterruptedly for 4 years by the county, municipality, or the Department of Transportation, jointly or severally, the road shall be deemed to be dedicated to the public to the extent in width that has been actually maintained for the prescribed period, whether or not the road has been for-

mally established as a public highway. The dedication shall vest all right, title, easement, and appurtenances in and to the road in:

- (a) The county, if it is a county road;
- (b) The municipality, if it is a municipal street or road; or
- (c) The state, if it is a road in the State Highway System or State Park Road System,

whether or not there is a record of a conveyance, dedication, or appropriation to the public use.

(2) The filing of a map in the office of the clerk of the circuit court of the county where the road is located showing the lands and reciting on it that the road has vested in the state, a county, or a municipality in accordance with subsection (1) or by any other means of acquisition, duly certified by:

- (a) The secretary of the Department of Transportation, or the secretary's designee, if the road is a road in the State Highway System or State Park Road System;
- (b) The chair and clerk of the board of county commissioners of the county, if the road is a county road; or
- (c) The mayor and clerk of the municipality, if the road is a municipal road or street,

shall be prima facie evidence of ownership of the land by the state, county, or municipality, as the case may be.

History.—s. 110, ch. 29965, 1955; ss. 23, 35, ch. 69-106; s. 23, ch. 74-382; s. 1, ch. 77-174; s. 3, ch. 88-168; s. 529, ch. 95-147.

Note.—Former s. 337.31.