

# MAINE STATE LEGISLATURE

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## CHAPTER 205

## LIMITATION OF ACTIONS

Subch.	Sec.
I. General Provisions .....	751
II. Real Actions .....	801
III. Miscellaneous Actions .....	851

## SUBCHAPTER I

## GENERAL PROVISIONS

Sec.

751. Twenty years.

752. Six years.

753. Two years.

754. One year.

**§ 751. Twenty years**

Personal actions on contracts or liabilities under seal, promissory notes signed in the presence of an attesting witness, or on the bills, notes or other evidences of debt issued by a bank shall be commenced within 20 years after the cause of action accrues.

R.S.1954, c. 112, § 98; 1959, c. 317, § 149.

**§ 752. Six years**

All civil actions shall be commenced within 6 years after the cause of action accrues and not afterwards, except actions on a judgment or decree of any court of record of the United States, or of any state, or of a justice of the peace in this State, and except as otherwise specially provided.

R.S.1954, c. 112, § 90; 1959, c. 317, § 143; 1963, c. 402, § 170.

**§ 753. Two years**

Actions for assault and battery, and for false imprisonment, slander, libel and malpractice of physicians and all others engaged in the healing art shall be commenced within 2 years after the cause of action accrues.

R.S.1954, c. 112, § 93.

**§ 754. One year**

No action shall be commenced against bail unless within one year after judgment was rendered against the principal; nor against sureties in recognizances in criminal cases unless within one year after default of the principal; nor against any person adjudged trustee, unless within one year from the expiration of the first execution against the principal and his goods, effects and credits in the hands of the trustee. No action in behalf of the State against sureties and recognizances in criminal cases shall be brought unless within one year after default of principal.

R.S.1954, c. 112, § 94; 1959, c. 317, § 145.

**SUBCHAPTER II****REAL ACTIONS**

Sec.

- 801. Rights of entry and action barred in 20 years.
- 802. Right begins to run.
- 803. Right deemed to accrue.
- 804. Entry for condition broken.
- 805. Accrual of right of entry.
- 806. Action by minister or sole corporation.
- 807. Minors and other disabled persons.
- 808. Death during period of disability.
- 809. Death of tenant in tail or remainderman before end of limitation.
- 810. Type of possession; need for enclosure.
- 811. Failure of first action; effect on limitations.
- 812. Acquisition of rights-of-way and easements by adverse possession; notice to prevent.
- 813. Adverse obstruction on rights-of-way; interruption by notice.
- 814. Trespass on wild lands; notice to quit; record; private roads in unorganized territory.
- 815. Forty years' possession bars action for recovery of land.
- 816. Limitations of actions for uncultivated lands in incorporated places.

**§ 801. Rights of entry and action barred in 20 years**

No person shall commence any real or mixed action for the recovery of lands, or make an entry thereon, unless within 20 years after the right to do so first accrued, or unless within 20 years after he or those under whom he claims were seized or possessed of the premises, except as provided in this subchapter.

R.S.1954, c. 174, § 1.

**§ 802. Right begins to run**

If such right or title first accrued to an ancestor, predecessor or other person under whom the plaintiff claims, said 20 years shall be computed from the time when the right or title first accrued to such ancestor, predecessor or other person.

R.S.1954, c. 174, § 2; 1961, c. 317, § 574.

**§ 803. Right deemed to accrue**

The right of entry or of action to recover land, as used in this subchapter, first accrues at the following times:

**1. When disseized.** When a person is disseized, at the time of such disseizin;

**2. Heir or devisee.** When he claims as heir or devisee of one who died seized, at the time of such death, unless there is a tenancy by the curtesy or other estate intervening after the death of the ancestor or devisor; in that case, his right accrues when such intermediate estate expires, or would expire by its own limitation;

**3. Intermediate estate.** When there is such an intermediate estate, and in all cases, when the party claims by force of any remainder or reversion, his right accrues when the intermediate estate would expire by its own limitation, notwithstanding any forfeiture thereof for which he might enter at an earlier time.

R.S.1954, c. 174, § 3.

**§ 804. Entry for condition broken**

Section 803 shall not prevent any person from entering, when so entitled by reason of any forfeiture or breach of condition; but if he claims under such a title, his right accrues when the forfeiture was incurred or the condition broken.

R.S.1954, c. 174, § 4.

**§ 805. Accrual of right of entry**

In all cases not otherwise provided for, the right of entry accrues when the claimant, or the person under whom he claims, first became entitled to the possession of the premises under the title on which the entry or action is founded.

R.S.1954, c. 174, § 5.

**§ 806. Action by minister or sole corporation**

If a minister or other sole corporation is disseized, any of his successors may enter upon the premises or bring an action for their recovery at any time within 5 years after the death, resignation or removal of the person disseized, notwithstanding 20 years after disseizin have expired.

R.S.1954, c. 174, § 6.

**§ 807. Minors and other disabled persons**

When such right of entry or action first accrues, if the person thereto entitled is a minor, mentally ill, imprisoned or absent from the United States, he, or anyone claiming under him, may make the entry or bring the action at any time within 10 years after such disability is removed, notwithstanding 20 years have expired.

R.S.1954, c. 174, § 7; 1959, c. 242, § 8.

**§ 808. Death during period of disability**

If the person first entitled to make the entry or bring the action dies during the continuance of the disability and no determination or judgment has been had on his title or right of action, the entry may be made or action brought by his heirs, or other person claiming under him, at any time within 10 years after his death, notwithstanding the 20 years have elapsed; but no such further time for bringing the action or making the entry, beyond that hereinbefore prescribed, shall be allowed by reason of the disability of any other person.

R.S.1954, c. 174, § 8.

**§ 809. Death of tenant in tail or remainderman before end of limitation**

When a tenant in tail or a remainderman in tail dies before the expiration of the period limited for making an entry or bringing an action for lands, no person claiming any estate which such tenant in tail or remainderman might have barred shall make an entry or bring an action to recover such land, except within the period during which the tenant in tail or remainderman, if he had so long lived, might have done it.

R.S.1954, c. 174, § 9.



**§ 810. Type of possession; need for enclosure**

To constitute a disseizin, or such exclusive and adverse possession of lands as to bar or limit the right of the true owner thereof to recover them, such lands need not be surrounded with fences or rendered inaccessible by water; but it is sufficient, if the possession, occupation and improvement are open, notorious and comporting with the ordinary management of a farm; although that part of the same, which composes the woodland belonging to such farm and used therewith as a woodlot, is not so enclosed.

R.S.1954, c. 174, § 10.

**§ 811. Failure of first action; effect on limitations**

If the summons and complaint in a real or mixed action fails of sufficient service or return by unavoidable cause, or if by the default or negligence of any officer to whom it was delivered or directed for service, the action is dismissed; or if the action is defeated for any matter of form or by the death or other disability of either party, or if the plaintiff's judgment is reversed on appeal, the plaintiff may commence a new action at any time within 6 months after the determination of the first action or the reversal of the judgment.

R.S.1954, c. 174, § 11; 1961, c. 317, § 575; c. 417, § 184.

**§ 812. Acquisition of rights-of-way and easements by adverse possession; notice to prevent**

No person, class of persons or the public shall acquire a right-of-way or other easement through, in, upon or over the land of another by the adverse use and enjoyment thereof, unless it is continued uninterruptedly for 20 years. If a person apprehends that a right-of-way or other easement in or over his land may be acquired by custom, use or otherwise by any person, class of persons or the public, he may give public notice of his intention to prevent the acquisition of such easement by causing a copy of such notice to be posted in some conspicuous place upon the premises for 6 successive days and such posting shall prevent the acquiring of such easement by use for any length of time thereafter; or he may prevent a particular person or persons from acquiring such easement by causing an attested copy of such notice to be served by an officer qualified to serve civil process upon him or them in hand or by leaving it at his or their dwelling house, or, if the person to whom such notice is to be given is not in the State such copy may be left with the tenant or occupant of the estate, if

any. If there is no such tenant or occupant, a copy of such notice shall be posted for 6 successive days in some conspicuous place upon such estate. Such notice from the agent, guardian or conservator of the owner of land shall have the same effect as a notice from the owner himself. A certificate by an officer qualified to serve civil process that such copy has been served or posted by him as provided, if made upon original notice and recorded with it, within 3 months after the service or posting in the registry of deeds for the county or district in which the land lies, shall be conclusive evidence of such service or posting.

R.S.1954, c. 174, § 12.

**§ 813. Adverse obstruction on rights-of-way; interruption by notice**

No right-of-way or other easement existing in, upon, over or through the land of another shall be extinguished by the adverse obstruction thereof, unless such adverse obstruction has been continued uninterruptedly for 20 years. A notice in writing given by the owner of such right-of-way or other easement to the person whose land is subject thereto, setting forth said owner's intention to contest the extinguishment of such right-of-way or other easement, and duly served and recorded as provided in section 812, shall be deemed an interruption of such obstruction and prevent the extinguishment of such right-of-way or other easement.

R.S.1954, c. 174, § 13.

**§ 814. Trespass on wild lands; notice to quit; record; private roads in unorganized territory**

If any person without right dwells upon or in any manner occupies any lands which on the first day of April, 1883, were wild lands, any owner of such wild lands or of any legal or equitable interest therein may cause a notice to quit such lands to be served upon such person by any sheriff or deputy sheriff, by giving the same to such person in hand. Such officer shall make his return upon a copy of such notice certified by him to be a true copy, and within 60 days thereafter such owner may cause such copy and return to be recorded in the registry of deeds in the county or district where said land is located. Proceedings had and taken as specified shall bar such person who has so entered or dwells upon such wild land from obtaining any rights by adverse possession to the land upon which he has so entered.

Such person shall be entitled to the benefits of all the provisions of law relating to betterments.

In roads privately owned in unorganized territory notwithstanding the other provisions of this subchapter, no title or interest shall be acquired against the owners thereof by adverse possession, prescription or acquiescence, however exclusive or long continued.

R.S.1954, c. 174, § 14; 1961, c. 165.

**§ 815. Forty years' possession bars action for recovery of land**

No real or mixed action for the recovery of lands shall be commenced or maintained against any person in possession thereof, when such person or those under whom he claims have been in actual possession for more than 40 years, claiming to hold them by adverse, open, peaceable, notorious and exclusive possession, in their own right.

R.S.1954, c. 174, § 15.

**§ 816. Limitations of actions for uncultivated lands in incorporated places**

No real or mixed action for the recovery of uncultivated lands or of any undivided fractional part thereof, situated in any place incorporated for any purpose, shall be commenced or maintained against any person, or entry made thereon, when such person or those under whom he claims have, continuously for the 20 years next prior to the commencement of such action or the making of such entry, claimed said lands or said undivided fractional part thereof under recorded deeds; and have, during said 20 years, paid all taxes assessed on said lands or on such undivided fractional part thereof, however said tax may have been assessed whether on an undivided fractional part of said lands or on a certain number of acres thereof equal approximately to the acreage of said lands or of said fractional part thereof; and have, during said 20 years, held such exclusive, peaceable, continuous and adverse possession thereof as comports with the ordinary management of such lands or of undivided fractional parts of such lands in this State.

R.S.1954, c. 174, § 16.

## SUBCHAPTER III

## MISCELLANEOUS ACTIONS

Sec.

- 851. Actions against sheriff for escape; for misconduct.
- 852. Mutual and open accounts current.
- 853. Persons under disability may bring action when disability removed.
- 854. Actions for breach of promise to marry prohibited.
- 855. Commencement of new action after failure, defeat or reversal.
- 856. Death of either party before action commenced.
- 857. Rights of alien enemies in time of war.
- 858. Limitation on actions for penalties.
- 859. Limitation extended in cases of fraud.
- 860. Renewal of promise in writing.
- 861. Judgment where action barred against some and not others.
- 862. When nonjoinder of defendants is pleaded.
- 863. Partial payment and indorsement.
- 864. Presumption of payment after 20 years.
- 865. Application of limitations to counterclaims.
- 866. Defendant out of State when action commenced; insolvency.
- 867. Foreign corporations covered by limitations.
- 868. Action to recover damages for land taken for public use.
- 869. Action barred when no administrator 6 years after death.
- 870. Judgment by perjury; action on case.

**§ 851. Actions against sheriff for escape; for misconduct**

Actions for escape of prisoners committed on execution shall be commenced within one year after the cause of action accrues, but actions against a sheriff, for negligence or misconduct of himself or his deputies, shall be commenced within 4 years after the cause of action accrues.

R.S.1954, c. 112, § 92; 1959, c. 317, § 144.

**§ 852. Mutual and open accounts current**

In contract actions to recover the balance due, where there have been mutual dealings between the parties, the items of which are unsettled, whether kept or proved by one party or both, the cause of action shall be deemed to accrue at the time of the last item proved in such account.

R.S.1954, c. 112, § 96; 1959, c. 317, § 147.

**§ 853. Persons under disability may bring action when disability removed**

If a person entitled to bring any of the actions under sections 752 to 754, 851 and 852 is a minor, mentally ill, imprisoned or without the limits of the United States when the cause of action accrues, the action may be brought within the times limited herein after the disability is removed.

R.S.1954, c. 112, § 97; 1959, c. 242, § 8; c. 317, § 148.

**§ 854. Actions for breach of promise to marry prohibited**

No action or proceeding to recover damages for breach of promise to marry shall be maintained.

R.S.1954, c. 112, § 91; 1961, c. 317, § 356.

**§ 855. Commencement of new action after failure, defeat or reversal**

When a summons fails of sufficient service or return by unavoidable accident, or default, or negligence of the officer to whom it was delivered or directed, or the action is otherwise defeated for any matter of form, or by the death of either party the plaintiff may commence a new action on the same demand within 6 months after determination of the original action; and if he dies and the cause of action survives, his executor or administrator may commence such new action within said 6 months.

R.S.1954, c. 112, § 99; 1959, c. 317, § 150.

**§ 856. Death of either party before action commenced**

If a person entitled to bring or liable to any action under subchapter I, and sections 851 to 855 dies before or within 30 days after the expiration of the time limited therefor, and the cause of action survives, the action may be commenced by the executor or administrator at any time within 20 months after his appointment, and not afterwards if barred by the other provisions hereof. Actions on such claims may be commenced against the executor or administrator after one year, or within one year subject to continuance without costs, and within 20 months after he has qualified as such executor or administrator, and not afterwards if barred by the other provisions hereof, except as provided in Title 18, section 2653.

R.S.1954, c. 112, § 100.

**§ 857. Rights of alien enemies in time of war**

If a person is disabled from prosecuting an action in this State by reason of being an alien subject or citizen of a country at war with the United States, the time during which such war continues shall not be a part of the period herein limited for the commencement of any of said actions.

R.S.1954, c. 112, § 101.

**§ 858. Limitation on actions for penalties**

Actions for any penalty or forfeiture on a penal statute, brought by a person to whom the penalty or forfeiture is given in whole or in part, shall be commenced within one year after the commission of the offense. If no person so prosecutes, it may be recovered by civil action, indictment or information in the name and for the use of the State at any time within 2 years after the commission of the offense, and not afterwards.

R.S.1954, c. 112, § 102; 1961, c. 317, § 357.

**§ 859. Limitation extended in cases of fraud**

If a person, liable to any action mentioned, fraudulently conceals the cause thereof from the person entitled thereto, or if a fraud is committed which entitles any person to an action, the action may be commenced at any time within 6 years after the person entitled thereto discovers that he has just cause of action.

R.S.1954, c. 112, § 104.

**§ 860. Renewal of promise in writing**

In actions founded on any contract, no acknowledgment or promise takes the case out of the operation hereof, unless the acknowledgment or promise is express, in writing and signed by the party chargeable thereby. No such acknowledgment or promise made by one joint contractor affects the liability of the others.

R.S.1954, c. 112, § 105; 1959, c. 317, § 152.

**§ 861. Judgment where action barred against some and not others**

In actions against 2 or more joint contractors, if it appears on trial or otherwise that the plaintiff is barred by the provisions hereof as to one or more of the defendants, but is entitled to re-

cover against any other by virtue of a new acknowledgment, promise or otherwise, judgment shall be rendered for the plaintiff against such other, and for the other defendants against the plaintiff.

R.S.1954, c. 112, § 106.

**§ 862. When nonjoinder of defendants is pleaded**

In an action on a contract, if the defendant pleads that another person ought to have been jointly sued and issue is joined thereon, and it appears on the trial that the action was barred by the provisions hereof against such person, the issue shall be found for the plaintiff.

R.S.1954, c. 112, § 107; 1959, c. 317, § 153.

**§ 863. Partial payment and indorsement**

Nothing herein contained alters, takes away or lessens the effect of payment of any principal or interest made by any person, but no indorsement or memorandum of such payment made on a promissory note, bill of exchange or other writing, by or on behalf of the party to whom such payment is made or purports to be made, is sufficient proof of payment to take the case out of the statute of limitations. No such payment made by one joint contractor or his executor or administrator affects the liability of another.

R.S.1954, c. 112, § 108.

**§ 864. Presumption of payment after 20 years**

Every judgment and decree of any court of record of the United States, or of any state, or justice of the peace in this State shall be presumed to be paid and satisfied at the end of 20 years after any duty or obligations accrued by virtue of such judgment or decree.

R.S.1954, c. 112, § 109; 1959, c. 317, § 154; 1963, c. 402, § 171.

**§ 865. Application of limitations to counterclaims**

All the provisions hereof respecting limitations apply to any counterclaim by the defendant. The time of such limitation shall be computed as if an action had been commenced therefor at the time the plaintiff's action was commenced.

R.S.1954, c. 112, § 110; 1959, c. 317, § 155.

**§ 866. Defendant out of State when action commenced; insolvency**

If a person is out of the State when a cause of action accrues against him, the action may be commenced within the time limited therefor after he comes into the State. If a person is absent from and resides out of the State, after a cause of action has accrued against him, the time of his absence from the State shall not be taken as a part of the time limited for the commencement of the action. If a person is adjudged an insolvent debtor after a cause of action has accrued against him, and such cause of action is one provable in insolvency, the time of the pendency of his insolvency proceedings shall not be taken as a part of the time limited for the commencement of the action. No action shall be brought by any person whose cause of action has been barred by the laws of any state, territory or country while all the parties have resided therein.

R.S.1954, c. 112, § 111.

**§ 867. Foreign corporations covered by limitations**

Any foreign corporation, doing business continuously in this State and having constantly an officer or agent resident herein on whom service of any process may be made, shall be entitled to the benefit of all provisions of law relating to limitation of actions the same as domestic corporations.

R.S.1954, c. 112, § 112.

**§ 868. Action to recover damages for land taken for public use**

No action or proceeding shall be brought or maintained to recover damages caused by the taking of any land, rights or other property to be used for a public purpose when such taking has been authorized by the Legislature, unless the same is commenced within 3 years after the cause first accrued for which the same or like proceedings might have been commenced, nor shall any compensation be awarded for damages sustained for more than 3 years before the commencement of proceedings to recover the same.

R.S.1954, c. 112, § 113.



**§ 869. Action barred when no administrator 6 years after death**

Where no administration is had upon the estate of a deceased person within 6 years from the date of death of said decedent and no petition for administration is pending, all actions upon any claim against said decedent shall be barred.

R.S.1954, c. 112, § 114.

**§ 870. Judgment by perjury; action on case**

When a judgment has been obtained against a party by the perjury of a witness introduced at the trial by the adverse party, the injured party may, within 3 years after such judgment or after final disposition of any motion for relief from the judgment, bring an action against such adverse party, or any perjured witness or confederate in the perjury, to recover the damages sustained by him by reason of such perjury; and the judgment in the former action is no bar thereto.

R.S.1954, c. 113, § 180; 1959, c. 317, § 202.