Chapter 4.16 RCW
LIMITATION OF ACTIONS

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RCW 4.16.005 Commencement of actions. Except as otherwise provided in this chapter, and except when in special cases a different limitation is prescribed by a statute not contained in this chapter, actions can only be commenced within the periods provided in this chapter after the cause of action has accrued. [1989 c 14 s 1.]

RCW 4.16.020 Actions to be commenced within ten years—Exception. The period prescribed for the commencement of actions shall be as follows:

Within ten years:

(1) For actions for the recovery of real property, or for the recovery of the possession thereof; and no action shall be maintained for such recovery unless it appears that the plaintiff, his or her ancestor, predecessor or grantor was seized or possessed of the premises in question within ten years before the commencement of the action.

(2) For an action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or of any territory or possession of the United States outside the boundaries thereof, or of any extraterritorial court of the United States, unless the period is extended under RCW 6.17.020 or a similar provision in another jurisdiction.

(3) Of the eighteenth birthday of the youngest child named in the order for whom support is ordered for an action to collect past due child support that has accrued under an order entered after July 23, 1989, by any of the above-named courts or that has accrued under an administrative order as defined in RCW 74.20A.020(6), which is issued after July 23, 1989. [2002 c 261 s 2; 1994 c 189 s 2; 1989 c 360 s 1;

1984 c 76 s 1; 1980 c 105 s 1; Code 1881 s 26; 1877 p 7 s 26; 1854 p 363 s 2; RRS s 156.]

Application—1980 c 105: "This act shall apply to all judgments which have not expired before June 12, 1980." [1980 c 105 s 7.]

Adverse possession
limitation tolled when personal disability: RCW 7.28.090.
recovery of realty, limitation: RCW 7.28.050.

RCW 4.16.030 Actions to foreclose special assessments. An action to collect any special assessment for local improvements of any kind against any person, corporation or property whatsoever, or to enforce any lien for any special assessment for local improvements of any kind, whether said action be brought by a municipal corporation or by the holder of any delinquency certificate, or by any other person having the right to bring such an action, shall be commenced within ten years after such assessment shall have become delinquent, or due, or within ten years after the last installment of any such special assessment shall have become delinquent or due when said special assessment is payable in installments. [1907 c 182 s 1; Rem. Supp. 1945 s 10322C-1.]

Actions brought by code city: RCW 35A.21.200.

Actions to foreclose special assessments in cities or towns: RCW 35.50.050.

RCW 4.16.040 Actions limited to six years. The following actions shall be commenced within six years:

(1) An action upon a contract in writing, or liability express or implied arising out of a written agreement, except as provided for in RCW 64.04.007(2).

(2) An action upon an account receivable. For purposes of this section, an account receivable is any obligation for payment incurred in the ordinary course of the claimant's business or profession, whether arising from one or more transactions and whether or not earned by performance.

(3) An action for the rents and profits or for the use and occupation of real estate. [2012 c 185 s 3; 2007 c 124 s 1; 1989 c 38 s 1; 1980 c 105 s 2; 1927 c 137 s 1; Code 1881 s 27; 1854 p 363 s 3; RRS s 157.]

Application—2007 c 124: "This act applies to all causes of action on accounts receivable, whether commenced before or after July 22, 2007." [2007 c 124 s 2.]

Application—1980 c 105: See note following RCW 4.16.020.

RCW 4.16.050 Action on irrigation or drainage district warrant. Action to enforce any right arising out of the issuance or ownership of any warrant of an irrigation or drainage district organized under the laws of this state, must be brought within six years from and

after the date of the issuance of such warrant. [1931 c 75 s 1; RRS s 157-1.]

Reviser's note: Transitional proviso omitted. The proviso reads: "PROVIDED, That this section shall not apply to actions not otherwise barred on warrants heretofore issued, if the same shall be commenced within one year after the taking effect of this act".

RCW 4.16.060 Action on irrigation district bonds. No action against any irrigation district organized under the laws of this state, or its officers, to enforce any right or claim arising out of the issuance or ownership of any negotiable bond, payable on a day certain, of the irrigation district, where such district is under contract with the United States, or any department or agency thereof, to sell its lands and its right, title and interest in its distribution canals and pipelines and its water rights, thereby necessitating the discontinuance of the district operation upon fulfillment of the contract, shall be brought after a period of six years from and after the maturity date of such bond. [1939 c 57 s 1; RRS s 157-2.]

Reviser's note: Transitional proviso omitted. The proviso reads: "PROVIDED, That this section shall not apply to actions not otherwise barred on such irrigation district bonds heretofore issued, if the same shall be commenced within six (6) months after the taking effect of this act".

RCW 4.16.070 Actions limited to five years. No action for the recovery of any real estate sold by an executor or administrator under the laws of this state shall be maintained by any heir or other person claiming under the deceased, unless it is commenced within five years next after the sale, and no action for any estate sold by a guardian shall be maintained by the ward, or by any person claiming under him or her, unless commenced within five years next after the termination of the guardianship, except that minors, and other persons under legal disability to sue at the time when the right of action first accrued, may commence such action at any time within three years after the removal of the disability. [2011 c 336 s 82; 1890 p 81 s 1; RRS s 158. Prior: 1863 p 245 ss 251, 252; 1860 p 205 ss 217, 218; 1854 p 290 ss 137, 138.]

Age of majority: Chapter 26.28 RCW.

Probate
actions by and against executors, etc.: Chapter 11.48 RCW.
sales and mortgages of real estate: Chapter 11.56 RCW; RCW 11.60.010.

Sales not voided by irregularities: RCW 11.56.115.

RCW 4.16.080 Actions limited to three years. The following actions shall be commenced within three years:

(1) An action for waste or trespass upon real property;

(2) An action for taking, detaining, or injuring personal property, including an action for the specific recovery thereof, or

for any other injury to the person or rights of another not hereinafter enumerated;

(3) Except as provided in RCW 4.16.040(2), an action upon a contract or liability, express or implied, which is not in writing, and does not arise out of any written instrument;

(4) An action for relief upon the ground of fraud, the cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud;

(5) An action against a sheriff, coroner, or constable upon a liability incurred by the doing of an act in his or her official capacity and by virtue of his or her office, or by the omission of an official duty, including the nonpayment of money collected upon an execution; but this subsection shall not apply to action for an escape;

(6) An action against an officer charged with misappropriation or a failure to properly account for public funds intrusted to his or her custody; an action upon a statute for penalty or forfeiture, where an action is given to the party aggrieved, or to such party and the state, except when the statute imposing it prescribed a different limitation: PROVIDED, HOWEVER, The cause of action for such misappropriation, penalty, or forfeiture, whether for acts heretofore or hereafter done, and regardless of lapse of time or existing statutes of limitations, or the bar thereof, even though complete, shall not be deemed to accrue or to have accrued until discovery by the aggrieved party of the act or acts from which such liability has arisen or shall arise, and such liability, whether for acts heretofore or hereafter done, and regardless of lapse of time or existing statute of limitation, or the bar thereof, even though complete, shall exist and be enforceable for three years after discovery by aggrieved party of the act or acts from which such liability has arisen or shall arise. [2011 c 336 s 83; 1989 c 38 s 2; 1937 c 127 s 1; 1923 c 28 s 1; Code 1881 s 28; 1869 p 8 s 28; 1854 p 363 s 4; RRS s 159.]

Reviser's note: Transitional proviso omitted from subsection (6). The proviso reads: "PROVIDED, FURTHER, That no action heretofore barred under the provisions of this paragraph shall be commenced after ninety days from the time this act becomes effective;".

RCW 4.16.090 Action to cancel tax deed. Actions to set aside or cancel any deed heretofore or hereafter issued by any county treasurer after and upon the sale of lands for general, state, county or municipal taxes, or upon the sale of lands acquired by any county on foreclosure of general, state, county or municipal taxes, or for the recovery of any lands so sold, must be brought within three years from and after the date of the issuance of such treasurer's deed. [1949 c 74 s 1; 1907 c 173 s 1; Rem. Supp. 1949 s 162.]

Reviser's note: Transitional proviso omitted. The proviso reads: "PROVIDED, This act shall not apply to actions not otherwise barred on deeds heretofore issued if the same be commenced within one year after the passage of this act".

RCW 4.16.100 Actions limited to two years. Within two years:

(1) An action for libel, slander, assault, assault and battery, or false imprisonment.

(2) An action upon a statute for a forfeiture or penalty to the state. [Code 1881 s 29; 1877 p 8 s 29; 1869 p 9 s 29; 1854 p 363 s 5; RRS s 160.]

Limitation of action for recovery of transportation charges: RCW 81.28.270.

RCW 4.16.110 Actions limited to one year. Within one year an action shall be brought against a sheriff, or other officer for the escape of a prisoner arrested or imprisoned on civil process. [1985 c 11 s 2. Prior: 1984 c 149 s 1; Code 1881 s 30; 1877 p 8 s 30; 1869 p 9 s 30; 1854 p 364 s 5; RRS s 161.]

Reviser's note: 1985 c 11 reenacted RCW 4.16.110 and 4.16.370 without amendment.

Short title—Application—1985 c 30: See RCW 11.02.900 and 11.02.901.

Purpose—1985 c 11: "The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution." [1985 c 11 s 1.]

Severability—1985 c 11: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 11 s 4.]

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.

Sheriff, civil liability: RCW 36.28.150.

RCW 4.16.115 Special provisions for action on penalty. An action upon a statute for a penalty given in whole or in part to the person who may prosecute for the same, shall be commenced within three years [one year] after the commission of the offense; and if the action be not commenced within one year by a private party, it may be commenced within two years after the commission of the offense in behalf of the state by the prosecuting attorney of the county, where said offense was committed. [1877 p 9 s 31; 1854 p 364 s 6; RRS s 163. Formerly RCW 4.16.140. Cf. Code 1881 s 31.]

Reviser's note: "one year" appeared in Laws of 1854 and 1877; "three years" appears in Code of 1881.

RCW 4.16.130 Action for relief not otherwise provided for. An action for relief not hereinbefore provided for, shall be commenced within two years after the cause of action shall have accrued. [Code 1881 s 33; 1877 p 9 s 32; 1854 p 364 s 7; RRS s 165.]

Limitation of action to recover taxes paid: RCW 84.68.060.

RCW 4.16.150 Action on mutual open accounts. In an action brought to recover a balance due upon a mutual open and current account, where there have been reciprocal demands between the parties, the cause of action shall be deemed to have accrued from the time of the last item proved in the account on either side, but whenever a period of more than one year shall have elapsed between any of a series of items or demands, they are not to be deemed such an account. [Code 1881 s 34; 1877 p 9 s 33; 1869 p 10 s 33; 1854 p 364 s 8; RRS s 166.]

RCW 4.16.160 Application of limitations to actions by state, counties, municipalities. The limitations prescribed in this chapter shall apply to actions brought in the name or for the benefit of any county or other municipality or quasimunicipality of the state, in the same manner as to actions brought by private parties: PROVIDED, That, except as provided in RCW 4.16.310, there shall be no limitation to actions brought in the name or for the benefit of the state, and no claim of right predicated upon the lapse of time shall ever be asserted against the state, including actions asserting a claim for civil penalties under RCW 19.86.140: AND FURTHER PROVIDED, That no previously existing statute of limitations shall be interposed as a defense to any action brought in the name or for the benefit of the state, although such statute may have run and become fully operative as a defense prior to February 27, 1903, nor shall any cause of action against the state be predicated upon such a statute. [2021 c 228 s 3; 1986 c 305 s 701; 1955 c 43 s 2. Prior: 1903 c 24 s 1; Code 1881 s 35; 1873 p 10 ss 34, 35; 1869 p 10 ss 34, 35; 1854 p 364 s 9; RRS s 167, part.]

Findings—Short title—2021 c 228: See notes following RCW 19.86.140.

Preamble—1986 c 305: "Tort law in this state has generally been developed by the courts on a case-by-case basis. While this process has resulted in some significant changes in the law, including amelioration of the harshness of many common law doctrines, the legislature has periodically intervened in order to bring about needed reforms. The purpose of this chapter is to enact further reforms in order to create a more equitable distribution of the cost and risk of injury and increase the availability and affordability of insurance.

The legislature finds that counties, cities, and other governmental entities are faced with increased exposure to lawsuits and awards and dramatic increases in the cost of insurance coverage. These escalating costs ultimately affect the public through higher taxes, loss of essential services, and loss of the protection provided by adequate insurance. In order to improve the availability and affordability of quality governmental services, comprehensive reform is necessary.

The legislature also finds comparable cost increases in professional liability insurance. Escalating malpractice insurance premiums discourage physicians and other health care providers from initiating or continuing their practice or offering needed services to the public and contribute to the rising costs of consumer health care. Other professionals, such as architects and engineers, face similar

difficult choices, financial instability, and unlimited risk in providing services to the public.

The legislature also finds that general liability insurance is becoming unavailable or unaffordable to many businesses, individuals, and nonprofit organizations in amounts sufficient to cover potential losses. High premiums have discouraged socially and economically desirable activities and encourage many to go without adequate insurance coverage.

Therefore, it is the intent of the legislature to reduce costs associated with the tort system, while assuring that adequate and appropriate compensation for persons injured through the fault of others is available." [1986 c 305 s 100.]

Report to legislature—1986 c 305: "The insurance commissioner shall submit a report to the legislature by January 1, 1991, on the effects of this act on insurance rates and the availability of insurance coverage and the impact on the civil justice system." [1986 c 305 s 909.]

Application—1986 c 305: "Except as provided in sections 202 and 601 of this act and except for section 904 of this act, this act applies to all actions filed on or after August 1, 1986." [1986 c 305 s 910.]

Severability—1986 c 305: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 305 s 911.]

RCW 4.16.170 Tolling of statute—Actions, when deemed commenced or not commenced. For the purpose of tolling any statute of limitations an action shall be deemed commenced when the complaint is filed or summons is served whichever occurs first. If service has not been had on the defendant prior to the filing of the complaint, the plaintiff shall cause one or more of the defendants to be served personally, or commence service by publication within ninety days from the date of filing the complaint. If the action is commenced by service on one or more of the defendants or by publication, the plaintiff shall file the summons and complaint within ninety days from the date of service. If following service, the complaint is not so filed, or following filing, service is not so made, the action shall be deemed to not have been commenced for purposes of tolling the statute of limitations. [1971 ex.s. c 131 s 1; 1955 c 43 s 3. Prior: 1903 c 24 s 1; Code 1881 s 35; 1873 p 10 s 35; 1869 p 10 s 35; RRS s 167, part.]

RCW 4.16.180 Statute tolled by absence from state, concealment, etc. If the cause of action shall accrue against any person who is a nonresident of this state, or who is a resident of this state and shall be out of the state, or concealed therein, such action may be commenced within the terms herein respectively limited after the coming, or return of such person into the state, or after the end of such concealment; and if after such cause of action shall have accrued, such person shall depart from and reside out of this state,

or conceal himself or herself, the time of his or her absence or concealment shall not be deemed or taken as any part of the time limit for the commencement of such action. [2011 c 336 s 84; 1927 c 132 s 1; Code 1881 s 36; 1854 p 364 s 10; RRS s 168.]

RCW 4.16.190 Statute tolled by personal disability. Unless otherwise provided in this section, if a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer, for an escape, be at the time the cause of action accrued either under the age of eighteen years, or incompetent or disabled to such a degree that he or she cannot understand the nature of the proceedings, such incompetency or disability as determined according to chapter 11.130 RCW, or imprisoned on a criminal charge prior to sentencing, the time of such disability shall not be a part of the time limited for the commencement of action. [2023 c 102 s 4; 2020 c 312 s 702; 2006 c 8 s 303; 1993 c 232 s 1; 1977 ex.s. c 80 s 2; 1971 ex.s. c 292 s 74; Code 1881 s 37; 1877 p 9 s 38; 1869 p 10 s 38; 1861 p 61 s 1; 1854 p 364 s 11; RRS s 169.]

Effective dates—2020 c 312: See note following RCW 11.130.915.

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Purpose—Intent—1977 ex.s. c 80: "It is the purpose of the legislature in enacting this 1977 amendatory act to provide for a comprehensive revision of out-dated and offensive language, procedures and assumptions that have previously been used to identify and categorize mentally, physically, and sensory handicapped citizens. It is legislative intent that language references such as idiots, imbeciles, feeble-minded or defective persons be deleted and replaced with more appropriate references to reflect current statute law more recently enacted by the federal government and this legislature. It is legislative belief that use of the undefined term "insanity" be avoided in preference to the use of a process for defining incompetency or disability as fully set forth in chapter 11.88 RCW; that language that has allowed or implied a presumption of incompetency or disability on the basis of an apparent condition or appearance be deleted in favor of a reference to necessary due process allowing a judicial determination of the existence or lack of existence of such incompetency or disability." [1977 ex.s. c 80 s 1.]

Severability—1977 ex.s. c 80: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 80 s 76.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

Adverse possession, personal disability, limitation tolled: RCW 7.28.090.

RCW 4.16.200 Statute tolled by death. Limitations on actions against a person who dies before the expiration of the time otherwise limited for commencement thereof are as set forth in chapter 11.40 RCW. Subject to the limitations on claims against a deceased person under chapter 11.40 RCW, if a person entitled to bring an action dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced by his or her representatives after the expiration of the time and within one year from his or her death. [2011 c 336 s 85; 1989 c 333 s 8; Code 1881 s 38; 1877 p 9 s 38; 1854 p 364 s 12; RRS s 170.]

Application—Effective date—1989 c 333: See note following RCW 11.40.010.

Decedents, claims against, time limits: RCW 11.40.051, 11.40.060.

RCW 4.16.210 Statute tolled—By war as to enemy person. When a person who is not a citizen or national of the United States and who is a subject or citizen of a country at war with the United States, the time of the continuance of the war shall not be a part of the period limited for the commencement of the action. [2026 c 36 s 3; 1941 c 174 s 1, part; Code 1881 s 39; 1854 p 365 s 13; Rem. Supp. 1941 s 171, part.]

RCW 4.16.220 Statute tolled—As to person in military service of United States. When the enforcement of civil liabilities against a person in the military service of the United States has been suspended by operation of law, the period of such suspension shall not be a part of the period limited for the commencement of the action. [1941 c 174 s 1, part; Code 1881 s 39; 1854 p 365 s 13; Rem. Supp. 1941 s 171, part.]

Application of federal law: RCW 73.16.070.

RCW 4.16.230 Statute tolled by judicial proceedings. When the commencement of an action is stayed by injunction or a statutory prohibition, the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action. [Code 1881 s 40; 1877 p 10 s 41; 1854 p 365 s 14; RRS s 172.]

RCW 4.16.240 Effect of reversal of judgment on appeal. If an action shall be commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed on error or appeal, the plaintiff, or if he or she dies and the cause of action survives, his or her heirs or representatives may commence a new action within one year after reversal. [2011 c 336 s 86; Code 1881 s 41; 1877 p 10 s 42; 1854 p 365 s 15; RRS s 173.]

RCW 4.16.250 Disability must exist when right of action accrued. No person shall avail himself or herself of a disability unless it

existed when his or her right of action accrued. [2011 c 336 s 87; Code 1881 s 42; 1877 p 10 s 43; 1854 p 365 s 16; RRS s 174.]

RCW 4.16.260 Coexisting disabilities. When two or more disabilities shall coexist at the time the right of action accrues, the limitation shall not attach until they all be removed. [Code 1881 s 43; 1877 p 10 s 44; 1854 p 365 s 17; RRS s 175.]

RCW 4.16.270 Effect of partial payment. When any payment has been or shall be made upon any existing contract prior to its applicable limitation period having expired, whether the contract is a bill of exchange, promissory note, bond, or other evidence of indebtedness, if the payment is made after it is due, the limitation period shall restart from the time the most recent payment was made. Any payment on the contract made after the limitation period has expired shall not restart, revive, or extend the limitation period. [2019 c 377 s 1; Code 1881 s 45; 1877 p 10 s 46; 1854 p 365 s 19; RRS s 177.]

RCW 4.16.280 New promise must be in writing. No acknowledgment or promise shall be sufficient evidence of a new or continuing contract whereby to take the case out of the operation of this chapter, unless it is contained in some writing signed by the party to be charged thereby; except, an acknowledgment or promise made after the limitation period has expired shall not restart, revive, or extend the limitation period. This section shall not alter the effect of any payment of principal or interest. [2019 c 377 s 2; Code 1881 s 44; 1877 p 10 s 45; 1854 p 365 s 18; RRS s 176.]

RCW 4.16.290 Foreign statutes of limitation, how applied. When the cause of action has arisen in another state, territory or country between nonresidents of this state, and by the laws of the state, territory or country where the action arose, an action cannot be maintained thereon by reason of the lapse of time, no action shall be maintained thereon in this state. [Code 1881 s 46; 1877 p 10 s 47; 1854 p 365 s 20; RRS s 178.]

RCW 4.16.300 Actions or claims arising from construction, alteration, repair, design, planning, survey, engineering, etc., of improvements upon real property. RCW 4.16.300 through 4.16.320 shall apply to all claims or causes of action of any kind against any person, arising from such person having constructed, altered or repaired any improvement upon real property, or having performed or furnished any design, planning, surveying, architectural or construction or engineering services, or supervision or observation of construction, or administration of construction contracts for any construction, alteration or repair of any improvement upon real property. This section is specifically intended to benefit persons having performed work for which the persons must be registered or licensed under RCW 18.08.310, 18.27.020, 18.43.040, 18.96.020, or 19.28.041, and shall not apply to claims or causes of action against

persons not required to be so registered or licensed. [2004 c 257 s 1; 1986 c 305 s 703; 1967 c 75 s 1.]

Severability—2004 c 257: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2004 c 257 s 2.]

Preamble—Report to legislature—Applicability—Severability—1986 c 305: See notes following RCW 4.16.160.

RCW 4.16.310 Actions or claims arising from construction, alteration, repair, design, planning, survey, engineering, etc., of improvements upon real property—Accrual and limitations of actions or claims. All claims or causes of action as set forth in RCW 4.16.300 shall accrue, and the applicable statute of limitation shall begin to run only during the period within six years after substantial completion of construction, or during the period within six years after the termination of the services enumerated in RCW 4.16.300, whichever is later. The phrase "substantial completion of construction" shall mean the state of completion reached when an improvement upon real property may be used or occupied for its intended use. Any cause of action which has not accrued within six years after such substantial completion of construction, or within six years after such termination of services, whichever is later, shall be barred: PROVIDED, That this limitation shall not be asserted as a defense by any owner, tenant or other person in possession and control of the improvement at the time such cause of action accrues. The limitations prescribed in this section apply to all claims or causes of action as set forth in RCW 4.16.300 brought in the name or for the benefit of the state which are made or commenced after June 11, 1986.

If a written notice is filed under RCW 64.50.020 within the time prescribed for the filing of an action under this chapter, the period of time during which the filing of an action is barred under RCW 64.50.020 plus sixty days shall not be a part of the period limited for the commencement of an action, nor for the application of this section. [2002 c 323 s 9; 1986 c 305 s 702; 1967 c 75 s 2.]

Preamble—Report to legislature—Applicability—Severability—1986 c 305: See notes following RCW 4.16.160.

RCW 4.16.320 Actions or claims arising from construction, alteration, repair, design, planning, survey, engineering, etc., of improvements upon real property—Construction. Nothing in RCW 4.16.300 through 4.16.320 shall be construed as extending the period now permitted by law for bringing any kind of action. [1967 c 75 s 3.]

RCW 4.16.325 Actions or claims arising from construction defect claims—Statute tolled. If a written notice of claim is served under RCW 64.50.020 within the time prescribed for the filing of an action under this chapter, the statutes of limitations for construction-related claims are tolled until sixty days after the period of time

during which the filing of an action is barred under RCW 64.50.020. [2002 c 323 s 8.]

RCW 4.16.326 Actions or claims for construction defect claims—Comparative fault. (1) Persons engaged in any activity defined in RCW 4.16.300 may be excused, in whole or in part, from any obligation, damage, loss, or liability for those defined activities under the principles of comparative fault for the following affirmative defenses:

(a) To the extent it is caused by an unforeseen act of nature that caused, prevented, or precluded the activities defined in RCW 4.16.300 from meeting the applicable building codes, regulations, and ordinances in effect at the commencement of construction. For purposes of this section an "unforeseen act of nature" means any weather condition, earthquake, or man-made event such as war, terrorism, or vandalism;

(b) To the extent it is caused by a homeowner's unreasonable failure to minimize or prevent those damages in a timely manner, including the failure of the homeowner to allow reasonable and timely access for inspections and repairs under this section. This includes the failure to give timely notice to the builder after discovery of a violation, but does not include damages due to the untimely or inadequate response of a builder to the homeowner's claim;

(c) To the extent it is caused by the homeowner or his or her agent, employee, subcontractor, independent contractor, or consultant by virtue of their failure to follow the builder's or manufacturer's maintenance recommendations, or commonly accepted homeowner maintenance obligations. In order to rely upon this defense as it relates to a builder's recommended maintenance schedule, the builder shall show that the homeowner had written notice of the schedule, the schedule was reasonable at the time it was issued, and the homeowner failed to substantially comply with the written schedule;

(d) To the extent it is caused by the homeowner or his or her agent's or an independent third party's alterations, ordinary wear and tear, misuse, abuse, or neglect, or by the structure's use for something other than its intended purpose;

(e) As to a particular violation for which the builder has obtained a valid release;

(f) To the extent that the builder's repair corrected the alleged violation or defect;

(g) To the extent that a cause of action does not accrue within the statute of repose pursuant to RCW 4.16.310 or that an actionable cause as set forth in RCW 4.16.300 is not filed within the applicable statute of limitations. In contract actions the applicable contract statute of limitations expires, regardless of discovery, six years after substantial completion of construction, or during the period within six years after the termination of the services enumerated in RCW 4.16.300, whichever is later;

(h) As to any causes of action to which this section does not apply, all applicable affirmative defenses are preserved.

(2) This section does not apply to any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a construction defect. [2003 c 80 s 1.]

RCW 4.16.327 Actions or claims for construction defects—Emergency repairs. Any person, including but not limited to contractors, builders, tradespeople, and other providers of construction, remodel, or repair services, who, without compensation or the expectation of compensation, renders emergency repairs to any structure at the scene of any accident, disaster, or emergency that has caused or resulted in damage to the structure is not liable for civil damages resulting from any act or omission in the rendering of such emergency repairs, other than acts or omissions constituting gross negligence or willful or wanton misconduct. Any person rendering emergency repairs during the course of regular employment and receiving compensation or expecting to receive compensation for rendering such repairs is excluded from the protection of this section.

For the purposes of this section, "accident, disaster, or emergency" includes an earthquake, windstorm, hurricane, landslide, flood, volcanic eruption, explosion, fire, or any similar occurrence. [2003 c 11 s 1.]

RCW 4.16.340 Actions based on childhood sexual abuse. (1) All claims or causes of action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse that occurred before June 6, 2024, shall be commenced within the later of the following periods:

(a) Within three years of the act alleged to have caused the injury or condition;

(b) Within three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act; or

(c) Within three years of the time the victim discovered that the act caused the injury for which the claim is brought:

PROVIDED, That the time limit for commencement of an action under this section is tolled for a child until the child reaches the age of eighteen years.

(2) The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse or exploitation.

(3) The knowledge of a custodial parent or guardian shall not be imputed to a person under the age of eighteen years.

(4) For purposes of this section, "child" means a person under the age of eighteen years.

(5) As used in this section, "childhood sexual abuse" means any act committed by the defendant against a complainant who was less than eighteen years of age at the time of the act and which act would have been a violation of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of similar effect at the time the act was committed.

(6) There shall be no time limit for bringing any claims or causes of action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse when the act of childhood sexual abuse occurs on or after June 6, 2024. [2024 c 253 s 1; 1991 c 212 s 2; 1989 c 317 s 2; 1988 c 144 s 1.]

Finding—Intent—1991 c 212: "The legislature finds that:

(1) Childhood sexual abuse is a pervasive problem that affects the safety and well-being of many of our citizens.

(2) Childhood sexual abuse is a traumatic experience for the victim causing long-lasting damage.

(3) The victim of childhood sexual abuse may repress the memory of the abuse or be unable to connect the abuse to any injury until after the statute of limitations has run.

(4) The victim of childhood sexual abuse may be unable to understand or make the connection between childhood sexual abuse and emotional harm or damage until many years after the abuse occurs.

(5) Even though victims may be aware of injuries related to the childhood sexual abuse, more serious injuries may be discovered many years later.

(6) The legislature enacted RCW 4.16.340 to clarify the application of the discovery rule to childhood sexual abuse cases. At that time the legislature intended to reverse the Washington supreme court decision in *Tyson v. Tyson,* 107 Wn.2d 72, 727 P.2d 226 (1986).

It is still the legislature's intention that *Tyson v. Tyson,* 107 Wn.2d 72, 727 P.2d 226 (1986) be reversed, as well as the line of cases that state that discovery of any injury whatsoever caused by an act of childhood sexual abuse commences the statute of limitations. The legislature intends that the earlier discovery of less serious injuries should not affect the statute of limitations for injuries that are discovered later." [1991 c 212 s 1.]

Intent—1989 c 317: "(1) The legislature finds that possible confusion may exist in interpreting the statute of limitations provisions for child sexual abuse civil actions in RCW 4.16.190 and 4.16.340 regarding the accrual of a cause of action for a person under age eighteen. The legislature finds that amending RCW 4.16.340 will clarify that the time limit for commencement of an action under RCW 4.16.340 is tolled until the child reaches age eighteen. The 1989 amendment to RCW 4.16.340 is intended as a clarification of existing law and is not intended to be a change in the law.

(2) The legislature further finds that the enactment of chapter 145, Laws of 1988, which deleted specific reference to RCW 9A.44.070, 9A.44.080, and 9A.44.100(1)(b) from RCW 9A.04.080 and also deleted those specific referenced provisions from the laws of Washington, did not intend to change the statute of limitations governing those offenses from seven to three years." [1989 c 317 s 1.]

Application—1988 c 144: "Sections 1 and 2 of this act apply to all causes of action commenced on or after June 9, 1988, regardless of when the cause of action may have arisen. To this extent, sections 1 and 2 of this act apply retrospectively." [1988 c 144 s 3.]

RCW 4.16.350 Action for injuries resulting from health care or related services—Physicians, dentists, nurses, etc.—Hospitals, clinics, nursing homes, etc. Any civil action for damages for injury occurring as a result of health care which is provided after June 25, 1976, against:

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a physician, osteopathic physician, dentist, nurse, optometrist, podiatric

physician and surgeon, chiropractor, physical therapist, psychologist, pharmacist, optician, physician's assistant, osteopathic physician's assistant, nurse practitioner, or physician's trained mobile intensive care paramedic, including, in the event such person is deceased, his or her estate or personal representative;

(2) An employee or agent of a person described in subsection (1) of this section, acting in the course and scope of his or her employment, including, in the event such employee or agent is deceased, his or her estate or personal representative; or

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subsection (1) of this section, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent thereof acting in the course and scope of his or her employment, including, in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative; based upon alleged professional negligence shall be commenced within three years of the act or omission alleged to have caused the injury or condition, or one year of the time the patient or his or her representative discovered or reasonably should have discovered that the injury or condition was caused by said act or omission, whichever period expires later, except that in no event shall an action be commenced more than eight years after said act or omission: PROVIDED, That the time for commencement of an action is tolled upon proof of fraud, intentional concealment, or the presence of a foreign body not intended to have a therapeutic or diagnostic purpose or effect, until the date the patient or the patient's representative has actual knowledge of the act of fraud or concealment, or of the presence of the foreign body; the patient or the patient's representative has one year from the date of the actual knowledge in which to commence a civil action for damages.

For purposes of this section, notwithstanding RCW 4.16.190, the knowledge of a custodial parent or guardian shall be imputed to a person under the age of eighteen years, and such imputed knowledge shall operate to bar the claim of such minor to the same extent that the claim of an adult would be barred under this section. Any action not commenced in accordance with this section shall be barred.

For purposes of this section, with respect to care provided after June 25, 1976, and before August 1, 1986, the knowledge of a custodial parent or guardian shall be imputed as of April 29, 1987, to persons under the age of eighteen years.

This section does not apply to a civil action based on intentional conduct brought against those individuals or entities specified in this section by a person for recovery of damages for injury occurring as a result of childhood sexual abuse as defined in RCW 4.16.340(5). [2011 c 336 s 88; 2006 c 8 s 302. Prior: 1998 c 147 s 1; 1988 c 144 s 2; 1987 c 212 s 1401; 1986 c 305 s 502; 1975-'76 2nd ex.s. c 56 s 1; 1971 c 80 s 1.]

Purpose—Findings—Intent—2006 c 8 ss 301 and 302: "The purpose of this section and section 302, chapter 8, Laws of 2006 is to respond to the court's decision in *DeYoung v. Providence Medical Center*, 136 Wn.2d 136 (1998), by expressly stating the legislature's rationale for the eight-year statute of repose in RCW 4.16.350.

The legislature recognizes that the eight-year statute of repose alone may not solve the crisis in the medical insurance industry.

However, to the extent that the eight-year statute of repose has an effect on medical malpractice insurance, that effect will tend to reduce rather than increase the cost of malpractice insurance.

Whether or not the statute of repose has the actual effect of reducing insurance costs, the legislature finds it will provide protection against claims, however few, that are stale, based on untrustworthy evidence, or that place undue burdens on defendants.

In accordance with the court's opinion in *DeYoung*, the legislature further finds that compelling even one defendant to answer a stale claim is a substantial wrong, and setting an outer limit to the operation of the discovery rule is an appropriate aim.

The legislature further finds that an eight-year statute of repose is a reasonable time period in light of the need to balance the interests of injured plaintiffs and the health care industry.

The legislature intends to reenact RCW 4.16.350 with respect to the eight-year statute of repose and specifically set forth for the court the legislature's legitimate rationale for adopting the eight-year statute of repose. The legislature further intends that the eight-year statute of repose reenacted by section 302, chapter 8, Laws of 2006 be applied to actions commenced on or after June 7, 2006." [2006 c 8 s 301.]

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Application—1998 c 147: "This act applies to any cause of action filed on or after June 11, 1998." [1998 c 147 s 2.]

Application—1988 c 144: See note following RCW 4.16.340.

Preamble—Report to legislature—Applicability—Severability—1986 c 305: See notes following RCW 4.16.160.

Severability—1975-'76 2nd ex.s. c 56: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 56 s 15.]

Actions for injuries resulting from health care: Chapter 7.70 RCW.

Complaint in personal injury actions not to include statement of damages: RCW 4.28.360.

Evidence of furnishing or offering to pay medical expenses inadmissible to prove liability in personal injury actions for medical negligence: Chapter 5.64 RCW.

Immunity of members of professional review committees, societies, examining, licensing or disciplinary boards from civil suit: RCW 4.24.240.

Proof and evidence required in actions against hospitals, personnel and members of healing arts: RCW 4.24.290.

Verdict or award of future economic damages in personal injury or property damage action may provide for periodic payments: RCW 4.56.260.

RCW 4.16.360 Application of chapter to parentage action. This chapter does not limit the time in which an action for determination of parentage may be brought under chapter 26.26A or 26.26B RCW. [2019 c 46 s 5001; 1983 1st ex.s. c 41 s 13.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

RCW 4.16.370 Actions against personal representative or trustee for breach of fiduciary duties—Statute of limitations. The statute of limitations for actions against a personal representative or trustee for breach of fiduciary duties is as set forth in RCW 11.96A.070. [1999 c 42 s 602; 1985 c 11 s 3. Prior: 1984 c 149 s 2.]

Effective date—1999 c 42: See RCW 11.96A.902.

Short title—Application—1985 c 30: See RCW 11.02.900 and 11.02.901.

Purpose—Severability—1985 c 11: See notes following RCW 4.16.110.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.