

1979 Assembly Bill 326

Date published: May 19, 1980

CHAPTER 323, Laws of 1979

AN ACT to repeal 114.065 (3) to (5) and 182.017 (5); to renumber 182.017 (6) to (8), 893.43 and 893.45; to renumber and amend 59.665; to amend 26.14 (9) (b), 59.97 (14), 60.05 (4), 60.304, 66.021 (10) (a), 66.044 (1) (intro.) and (5), 66.05 (3), 66.13, 80.34 (2), 88.87 (3) (b), 92.16, 114.065 (2), 117.01 (7), 138.06 (3), 198.12 (2), 198.18 (3), 198.22 (2), 248.06, 296.50, 345.05 (3) (intro) and (a) and (4), 757.66, 885.285 (4), 893.80 (title), as renumbered, and 893.82 (title) and (1), as renumbered; to repeal and recreate chapter 893; and to create 13.93 (1) (n) of the statutes, relating to claim procedures against government entities and employes, and statutes of limitation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 13.93 (1) (n) of the statutes is created to read:

13.93 (1) (n) Shall include an index of statutes of limitation and statutes establishing procedures for assertion of claims against governmental units or their employes in ch. 893 of each biennial edition of the Wisconsin statutes.

SECTION 2. 26.14 (9) (b) of the statutes is amended to read:

26.14 (9) (b) Any person who ~~shall set~~ sets a fire on any land and ~~allow~~ allows such fire to escape and become a forest fire, shall be liable for all expenses incurred in the suppression of ~~such the~~ fire by the state or town in which ~~such the~~ fire occurred. ~~The department or the town clerk shall respectively certify to such person the claim of the state or town in writing, and list thereon the items of expense incurred in the suppression of such fire. Such claim shall be paid within 60 days and if not paid within such time, the state or town may begin an An action thereon at any time under this paragraph shall be commenced within 2 years the time provided by s. 893.91 or be barred.~~

SECTION 3. 59.665 of the statutes is renumbered 893.36 and amended to read:

893.36 (title) Survey. No action may be brought against a ~~county surveyor, city or village an~~ engineer, or any land surveyor to recover damages for negligence, errors or omission in the making of any survey nor for contribution or indemnity related to such negligence, errors or omissions more than 4 6 years after the completion of a survey.

SECTION 4. 59.97 (14) of the statutes is amended to read:

59.97 (14) LIMITATION OF ACTIONS. A ~~land owner~~ landowner, occupant or other person affected by a county zoning ordinance or amendment, who claims that ~~such the~~ ordinance or amendment is invalid because procedures prescribed by the statutes or the ordinance were not followed, shall ~~be forever barred unless the court action is commenced commence an action~~ within 6 months after adoption. Provided, the time provided by s.

893.73 (1), ~~except~~ this subsection shall and s. 893.73 (1) do not apply unless there has been at least one publication of a notice of a zoning hearing in a local newspaper of general circulation and unless there has been held a public hearing on the ordinance or amendment at the time and place specified in ~~such~~ the notice.

SECTION 5. 60.05 (4) of the statutes is amended to read:

60.05 (4) VALIDITY; HOW TESTED; WHEN PRESUMED. The validity of the proceedings to constitute or divide any town shall not be questioned in any manner, except by certiorari, or proceeding brought directly for that purpose by the proper officer or some person owning taxable property in any such town within ~~one year from the date of the order constituting or dividing such town~~ the time provided by s. 893.73 (1), and every town which shall have exercised the powers and functions of a town for a period of one year shall be conclusively presumed to have been duly organized.

SECTION 6. 60.304 of the statutes is amended to read:

60.304 Review. Any party aggrieved by any act of the town board in the establishment of a town sanitary district may bring action in the circuit court of the county in which his or her lands are located, to set aside the action of the board, within ~~twenty days~~ the time after the final determination by said the board provided by s. 893.73 (2). Unless action is so taken within such period, the determination by the town board shall be conclusive.

SECTION 7. 66.021 (10) (a) of the statutes is amended to read:

66.021 (10) (a) ~~No An action may be commenced after 60 days from the effective date of any annexation on any grounds whatsoever, whether denominated procedural or jurisdictional, to contest the validity thereof upon any grounds whatsoever, whether denominated procedural or jurisdictional. The validity of any annexation shall, 60 days after the effective date thereof, be conclusively established and may not be attacked collaterally or otherwise questioned of an annexation shall be commenced within the time after adoption of the annexation ordinance provided by s. 893.73 (2).~~

SECTION 8. 66.044 (1) (intro.) and (5) of the statutes are amended to read:

66.044 (1) (intro.) The governing body of any village or of any city of the ~~second, third or fourth~~ 2nd, 3rd or 4th class may by ordinance enact an alternative system of approving financial claims against the municipal treasury. ~~Such other than claims subject to s. 893.80. The ordinance shall provide that payments may be made from the city or village treasury after the comptroller or clerk of the city or village shall have audited audits and approved approves each such claim as a proper charge against the treasury, and shall have indorsed endorses his or her approval thereon on the claim after having determined that the following conditions have been complied with:~~

(5) ~~Whenever such~~ If an alternative procedure ~~has been is~~ adopted by ordinance in conformity with this section, ~~then~~ the claim procedure required by ss. 61.25 (6), 61.51, 62.09 (10), 62.11, and 62.12 ~~and 895.43~~ and other relevant provisions shall, except s. 893.80, is not be applicable in ~~such~~ the city or village.

SECTION 9. 66.05 (3) of the statutes is amended to read:

66.05 (3) Anyone affected by any such order shall within ~~30 days after service of such order~~ the time provided by s. 893.76 apply to the circuit court for an order restraining the inspector of buildings or other designated officer from razing and removing ~~such~~ the building or part thereof or forever be barred. Hearing shall be had within 20 days and shall be given precedence over other matters on the court's calendar. The court shall determine whether the order of the inspector of buildings is reasonable, and if found reasonable the court shall dissolve the restraining order, and if found not reasonable the court shall continue the restraining order or modify it as the circumstances require. Costs shall be in the discretion of the court. If the court finds that the order of the inspector of buildings is unreasonable, the inspector of buildings or other designated officer shall issue no other order pursuant to the authority of this section in regard to the same building or

part thereof until its condition is substantially changed. The remedies ~~herein~~ provided shall be in this subsection are exclusive remedies and anyone affected by such an order of the inspector shall not be entitled to recover any damages for the razing and removal of any such building.

SECTION 10. 66.13 of the statutes is amended to read:

66.13 Limitation of action attacking contracts. Whenever the proper officers of any city or village, however incorporated, enter into any contract in manner and form as prescribed by statute, and either party to ~~such the~~ contract has procured or furnished materials or expended money under the terms of ~~such the~~ contract, no action or proceedings shall may be maintained to test the validity of ~~any such the~~ contract unless ~~such the~~ action or ~~proceedings shall be~~ proceeding is commenced within ~~sixty days after the date of the signing of such contract~~ the time limited by s. 893.75.

SECTION 11. 80.34 (2) of the statutes is amended to read:

80.34 (2) The validity of any such order if fair on its face shall not be open to collateral attack, but may be tested by certiorari or other proper action or proceeding brought directly for that purpose ~~at any time if commenced within three months after such order is made but not thereafter. This subsection shall not apply to orders made prior to July 22, 1923~~ the time after the order is made provided by s. 893.73 (2).

SECTION 12. 88.87 (3) (b) of the statutes is amended to read:

88.87 (3) (b) Whoever fails or neglects to comply with a duty imposed by par. (a) is liable for all damages to the highway or railroad grade caused by such failure or neglect. The authority in charge of maintenance of the highway or the railroad company which constructed or maintains the railroad grade may, ~~within 90 days after the alleged damage occurred,~~ bring an action to recover such damages. An action under this paragraph shall be commenced within the time provided by s. 893.59 or be barred.

SECTION 13. 92.16 of the statutes is amended to read:

92.16 Contesting validity of district, limitation. Any action or proceeding which seeks to contest, directly or collaterally, the validity of the creation of a soil and water conservation district ~~pursuant to under~~ s. 92.05 must shall be commenced within ~~6 months from the date of the passage of the resolution creating such district~~ the time provided by s. 893.73 (1) or be barred.

SECTION 14. 114.065 (2) of the statutes is amended to read:

114.065 (2) No action to recover damages under this section shall be brought unless ~~within 90 days after the date of the accident notice of a claim and a claim is filed for the damages sought or if the damages cannot be determined or ascertained, a notice of intention to file claim shall be filed within such 90 days, which notice shall contain a statement of the facts establishing the negligence upon which the claim is based and a description of the nature of the injuries or damages for which claim will later be filed~~ as provided by s. 893.84.

SECTION 15. 114.065 (3) to (5) of the statutes are repealed.

SECTION 16. 117.01 (7) of the statutes is amended to read:

117.01 (7) VALIDATION OF SCHOOL DISTRICTS. ~~If a school district has exercised the rights and privileges of a school district for a period of 4 months, no~~ No appeal or other action attacking the legality of the formation of ~~such a~~ school district, either directly or indirectly, may be taken ~~after the period provided by s. 893.74.~~ This subsection shall be liberally construed to effect the legislative purpose to validate and make certain the legal existence of all school districts in this state, however created or reorganized, and to bar every right to question the existence thereof in any manner and to bar every remedy therefor notwithstanding any defects or irregularities, jurisdictional or otherwise, after

the expiration of ~~such 4-month~~ the period provided by s. 893.74 except where some action or proceeding has been commenced within ~~such 4-month~~ that period.

SECTION 17. 138.06 (3) of the statutes is amended to read:

138.06 (3) Any borrower who paid interest on a loan or forbearance at a rate greater than the rate allowed in s. 138.05 may ~~by himself personally~~ or his by personal representative recover in an action against the lender or ~~his~~ personal representative the amount of interest, principal and charges paid on such loan or forbearance but not more than \$2,000 of principal, if ~~such~~ the action is brought within ~~2 years after such excessive interest has been paid~~ the time provided by s. 893.62.

SECTION 18. 182.017 (5) of the statutes is repealed.

SECTION 19. 182.017 (6) to (8) of the statutes are renumbered 182.017 (5) to (7).

SECTION 20. 198.12 (2) of the statutes is amended to read:

198.12 (2) SERVICE OF PROCESS ON, PERSONAL INJURY CLAIMS, VENUE. The district shall sue or be sued in its corporate name and service of process upon the district shall be by service upon the chairman of the board and the clerk of the district, but no action shall be brought or maintained against a district to recover damages for personal injury upon a claim or cause of action unless a claim for such damages, duly verified by the claimant or his authorized agent and stating the particulars thereof, shall be served upon the clerk of the district within thirty days of the time when such injury first occurred the claimant complies with s. 893.80. All actions by or against the district, except condemnation proceedings and actions to which the state or any officer or commission thereof is a party, shall be brought in the circuit court for the county in which its principal administrative office is located.

SECTION 21. 198.18 (3) of the statutes is amended to read:

198.18 (3) (title) LIMITATION OF ACTION. Bonds of the district shall be incontestable, except upon constitutional grounds, ~~from and after thirty days from the date of their issuance~~ the time provided by s. 893.77 (3), and the substance of this provision and s. 893.77 (3) shall be stated upon the face of each bond.

SECTION 22. 198.22 (2) of the statutes is amended to read:

198.22 (2) DEFINITIONS. The provisions of ss. 198.01 to 198.04 (3), 198.06 (2) to (7), 198.10 (5), 198.12 (1) to (5), 198.13 (3) to (5), 198.14 (1), (2), (5) to (8) and (10) to (15), 198.145, 198.15, 198.165, 198.17 (6) to (8), 198.18 (2) to (5), ~~and 198.21 and 893.77 (3)~~ as now in effect or as subsequently amended shall apply to municipal water districts, except that in this section and in the above mentioned statutory provisions, adopted herein by reference:

SECTION 23. 248.06 of the statutes is amended to read:

248.06 Actions for recovery of property procured by fraud; corroboration required. Actions for the recovery of property received by one party from the other after the alleged contract to marry and before the breach thereof, which was procured by such party by his or her fraud in representing to the other that he or she intended to marry the other and not to breach the contract to marry, are not barred by this chapter; but such actions must be commenced within ~~one year after the breach of the contract to marry and the~~ the time provided by s. 893.41 or be barred. The cause must be shown by affirmative proof aside from the testimony of the party seeking the recovery.

SECTION 24. 296.50 of the statutes is amended to read:

296.50 Limitation of action to recover estate sold. An action for the recovery of any estate sold by a guardian on a cause of action which accrues prior to the effective date of this act (1979) may not be maintained by the ward or by any person claiming under ~~him~~ the ward unless it is commenced within 5 years after the termination of the guardianship. Minors and others under legal disability at the time when the cause of action subject to

this section accrues may commence their action at any time within 5 years after the removal of the disability.

SECTION 25. 345.05 (3) (intro.) and (a) and (4) of the statutes are amended to read:

345.05 (3) (intro.) The manner ~~and~~, time, form ~~of~~ and ~~the~~ place for filing claims and notice of claim is:

(a) If against the state, as provided in s. ss. 16.53 (8), ~~with the department of administration and 893.84.~~

(4) ~~Failure of the state to pass upon the claim within 90 days after presentation constitutes a disallowance. Disallowance by the state bars any action founded on the claim unless brought within 6 months after disallowance. Actions against the state and payment of the amount recovered shall be as provided in ss. 285.01 and 285.04. For the purposes of this section, judgments against municipalities shall be certified, filed and collected as provided in s. 66.09 whether named therein or not.~~

SECTION 26. 757.66 of the statutes is amended to read:

757.66 Recovery of legal fees paid for indigent defendants. Whenever a county has paid for legal representation of an indigent defendant and the county board so requires, the clerk of the court where representation for the indigent was appointed shall prepare, sign and file in the office of the register of deeds, in a record book there to be kept for the purpose, a certificate stating the name and residence of the indigent beneficiary, the amount paid by the county for his or her legal representation, the date when paid, the court and county in which the case was heard and such other information as the county board directs. ~~When~~ If a claim certificate is so filed within 6 months after payment is made by the county it may, any time within 10 years the time after the filing provided by s. 893.86, commence an action to recover from the indigent defendant, or his or her estate if the action is commenced within the time set for filing claims by creditors, the amount paid by the county for his or her legal representation. In any such action the 10-year statute of limitations ss. 893.86 and s. 859.01, so far as applicable, may be pleaded in defense. The claim shall not take precedence over the allowances in ss. 861.31, 861.33 and 861.35. The district attorney shall commence and prosecute all actions and proceedings necessary under this section to make the recovery when it appears that the indigent defendant or his or her estate is able to pay the claim.

SECTION 27. 885.285 (4) of the statutes is amended to read:

885.285 (4) The period fixed for the limitation for the commencement of actions shall ~~be either the period of time remaining under the original statute of limitations or 3 years from the date of the last payment made under sub. (1), whichever is greater as provided by s. 893.12.~~

SECTION 28. Chapter 893 of the statutes is repealed and recreated to read:

CHAPTER 893

LIMITATIONS OF COMMENCEMENT OF ACTIONS AND PROCEEDINGS

AND PROCEDURE FOR CLAIMS

AGAINST GOVERNMENTAL UNITS

SUBCHAPTER I

COMMENCEMENT, COMPUTATION, ACTION IN NON-WISCONSIN

FORUM AND MISCELLANEOUS PROVISIONS

893.01 Civil actions; objection as to time of commencing. Civil actions may be commenced only within the periods prescribed in this chapter, except when, in special cases, a different limitation is provided by statute. An objection that the action was not com-

menced within the time limited may only be taken by answer or motion to dismiss under s. 802.06 (2) in proper cases.

893.02 Action, when commenced. An action is commenced, within the meaning of any provision of law which limits the time for the commencement of an action, as to each defendant, when the summons naming the defendant and the complaint are filed with the court, but no action shall be deemed commenced as to any defendant upon whom service of authenticated copies of the summons and complaint has not been made within 60 days after filing.

893.03 Presenting claims. The presentation of any claim, in cases where by law such presentment is required, to the circuit court shall be deemed the commencement of an action within the meaning of any law limiting the time for the commencement of an action thereon.

893.04 Computation of period within which action may be commenced. Unless otherwise specifically prescribed by law, a period of limitation within which an action may be commenced is computed from the time that the cause of action accrues until the action is commenced.

893.05 Relation of statute of limitations to right and remedy. When the period within which an action may be commenced on a Wisconsin cause of action has expired, the right is extinguished as well as the remedy.

893.07 Application of foreign statutes of limitation. (1) If an action is brought in this state on a foreign cause of action and the foreign period of limitation which applies has expired, no action may be maintained in this state.

(2) If an action is brought in this state on a foreign cause of action and the foreign period of limitation which applies to that action has not expired, but the applicable Wisconsin period of limitation has expired, no action may be maintained in this state.

SUBCHAPTER II

LIMITATIONS TOLLED OR EXTENDED

893.10 Actions, time for commencing. The period within which an action may be commenced shall not be considered to have expired when the court before which the action is pending is satisfied that the person originally served knowingly gave false information to the officer with intent to mislead the officer in the performance of his or her duty in the service of any summons or civil process. If the court so finds, the period of limitation is extended for one year.

893.11 Extension of time if no person to sue. The fact that there is no person in existence who is authorized to bring an action on a cause of action at the time it accrues shall not extend the time within which, according to this chapter, an action may be commenced upon the cause of action to more than double the period otherwise prescribed by law.

893.12 Advance payment of damages; limitation extended. The period fixed for the limitation for the commencement of actions, if a payment is made as described in s. 885.285 (1), shall be either the period of time remaining under the original statute of limitations or 3 years from the date of the last payment made under s. 885.285 (1), whichever is greater.

893.13 Tolling of statutes of limitation. (1) In this section and ss. 893.14 and 893.15 "final disposition" means the end of the period in which an appeal may be taken from a final order or judgment of the trial court, the end of the period within which an order for rehearing can be made in the highest appellate court to which an appeal is taken, or the final order or judgment of the court to which remand from an appellate court is made, whichever is latest.

(2) A law limiting the time for commencement of an action is tolled by the commencement of the action to enforce the cause of action to which the period of limitation applies. The law limiting the time for commencement of the action is tolled for the period from the commencement of the action until the final disposition of the action.

(3) If a period of limitation is tolled under sub. (2) by the commencement of an action and the time remaining after final disposition in which an action may be commenced is less than 30 days, the period within which the action may be commenced is extended to 30 days from the date of final disposition.

893.14 Limitation on use of a right of action as a defense or counterclaim. Unless otherwise specifically prescribed by law, the period within which a cause of action may be used as a defense or counterclaim is computed from the time of the accrual of the cause of action until the time that the plaintiff commences the action in which the defense or counterclaim is made. A law limiting the time for commencement of an action is tolled by the assertion of the defense or the commencement of the counterclaim until final disposition of the defense or counterclaim. If a period of limitation is tolled under this section and the time remaining after final disposition in which an action may be commenced is less than 30 days, the period within which the action may be commenced is extended to 30 days from the date of final disposition.

893.15 Effect of an action in a non-Wisconsin forum on a Wisconsin cause of action.

(1) In this section "a non-Wisconsin forum" means all courts, state and federal, in states other than this state and federal courts in this state.

(2) In a non-Wisconsin forum, the time of commencement or final disposition of an action is determined by the local law of the forum.

(3) A Wisconsin law limiting the time for commencement of an action on a Wisconsin cause of action is tolled from the period of commencement of the action in a non-Wisconsin forum until the time of its final disposition in that forum.

(4) Subsection (3) does not apply to an action commenced on a Wisconsin cause of action in a non-Wisconsin forum after the time when the action is barred by a law of the forum limiting the time for commencement of an action.

(5) If an action is commenced in a non-Wisconsin forum on a Wisconsin cause of action after the time when the Wisconsin period of limitation has expired but before the foreign period of limitation has expired, the action in the non-Wisconsin forum has no effect on the Wisconsin period of limitation.

893.16 Person under disability. (1) If a person entitled to bring an action is, at the time the cause of action accrues, either under the age of 18 years, except for actions against health care providers; or insane, or imprisoned on a criminal charge the action may be commenced within 2 years after the disability ceases, except that where the disability is due to insanity or imprisonment, the period of limitation prescribed in this chapter may not be extended for more than 5 years.

(2) Subsection (1) does not shorten a period of limitation otherwise prescribed.

(3) A disability does not exist, for the purposes of this section, unless it existed when the cause of action accrues.

(4) When 2 or more disabilities coexist at the time the cause of action accrues, the 2-year period specified in sub. (1) does not begin until they all are removed.

(5) This section applies only to statutes in this chapter limiting the time for commencement of an action or assertion of a defense or counterclaim except it does not apply to:

(a) Actions for the recovery of a penalty or forfeiture or against a sheriff or other officer for escape;

(b) Extend the time limited by s. 893.33, 893.41, 893.59, 893.62, 893.73 to 893.76, 893.77 (3), 893.86 or 893.91 or subch. VIII for commencement of an action or assertion of a defense or counterclaim; or

(c) A cause of action which accrues prior to the effective date of this act (1979).

893.17 Transition; limitation if disability exists; temporary. (1) This section does not apply to a cause of action which accrues on or after the effective date of this act (1979).

(2) If a person entitled to commence any action for the recovery of real property or to make an entry or defense founded on the title to real property or to rents or services out of the same is, at the time such title shall first descend or accrue, either: within the age of 18 years; or insane; or imprisoned on a criminal charge or in execution upon conviction of a criminal offense, for a term less than for life, the time during which such disability shall continue shall not be deemed any portion of the time in this chapter limited for the commencement of such action or the making of such entry or defense; but such action may be commenced or entry or defense made, after the time limited and within 5 years after the disability shall cease or after the death of the person entitled, who shall die under such disability; but such action shall not be commenced or entry or defense made after that period.

(3) This section shall not operate to extend the time for commencing any action or assertion of a defense or counterclaim with respect to which a limitation period established in s. 893.33 has expired and does not apply to s. 893.41, 893.59, 893.62, 893.73 to 893.76, 893.77 (3), 893.86 or 893.91 or subch. VIII.

893.18 Transition; persons under disability. (1) This section does not apply to a cause of action which accrues on or after the effective date of this act (1979) or to s. 893.41, 893.59, 893.62, 893.73 to 893.76, 893.77 (3), 893.86 or 893.91 or subch. VIII.

(2) If a person entitled to bring an action mentioned in this chapter, except actions for the recovery of a penalty or forfeiture or against a sheriff or other officer for an escape, or for the recovery of real property or the possession thereof is, at the time the cause of action accrued, either

(a) Within the age of 18 years, except for actions against health care providers; or

(b) Insane; or

(c) Imprisoned on a criminal charge or in execution under sentence of a criminal court for a term less than his natural life, the time of such disability is not a part of the time limited for the commencement of the action, except that the period within which the action must be brought cannot be extended more than 5 years by any such disability, except infancy; nor can it be so extended in any case longer than one year after the disability ceases.

(3) A disability does not exist, for the purpose of this section, unless it existed when the cause of action accrued.

(4) When 2 or more disabilities coexist at the time the cause of action accrues the period of limitation does not attach until they all are removed.

893.19 Limitation when person out of state. (1) If a person is out of this state when the cause of action accrues against the person an action may be commenced within the terms of this chapter respectively limited after the person returns or removes to this state. But the foregoing provision shall not apply to any case where, at the time the cause of action accrues, neither the party against nor the party in favor of whom the same accrues is a resident of this state; and if, after a cause of action accrues against any person, he or she departs from and resides out of this state the time of absence is not any part of the time limited for the commencement of an action; provided, that no foreign corporation which files with the secretary of state, or any other state official or body, pursuant to the requirements of any applicable statute of this state, an instrument appointing a registered agent as provided in ch. 180, a resident or any state official or body of this state, its attorney or

agent, on whom, pursuant to such instrument or any applicable statute, service of process may be made in connection with such cause of action, is deemed a person out of this state within the meaning of this section for the period during which such appointment is effective, excluding from such period the time of absence from this state of any registered agent, resident agent or attorney so appointed who departs from and resides outside of this state.

(2) This section shall not apply to any person who, while out of this state, may be subjected to personal jurisdiction in the courts of this state on any of the grounds specified in s. 801.05.

893.20 Application to alien enemy. When a person is an alien subject or citizen of a country at war with the United States the time of the continuance of the war is not a part of the time limited for the commencement of the action.

893.21 Effect of military exemption from civil process. The time during which any resident of this state has been exempt from the service of civil process on account of being in the military service of the United States or of this state, shall not be taken as any part of the time limited by law for the commencement of any civil action in favor of or against such person.

893.22 Limitation in case of death. If a person entitled to bring an action dies before the expiration of the time limited for the commencement of the action and the cause of action survives an action may be commenced by the person's representatives after the expiration of that time and within one year from the person's death. If a person against whom an action may be brought dies before the expiration of the time limited for the commencement of the action and the cause of action survives an action may be commenced after the expiration of that time and within one year after the issuing, within this state, of letters testamentary or of administration.

893.23 When action stayed. When the commencement of an action is stayed by injunction or statutory prohibition the time of the continuance of the injunction or prohibition is not part of the time limited for the commencement of the action.

SUBCHAPTER III

ACTIONS CONCERNING REAL OR PERSONAL PROPERTY

893.25 Adverse possession, not founded on written instrument. (1) An action for the recovery or the possession of real estate and a defense or counterclaim based on title to real estate are barred by uninterrupted adverse possession of 20 years, except as provided by s. 893.14 and 893.29. A person who, in connection with his or her predecessors in interest, is in uninterrupted adverse possession of real estate for 20 years, except as provided by s. 893.29, may commence an action to establish title under ch. 841.

(2) Real estate is possessed adversely under this section:

(a) Only if the person possessing it, in connection with his or her predecessors in interest, is in actual continued occupation under claim of title, exclusive of any other right; and

(b) Only to the extent that it is actually occupied and:

1. Protected by a substantial enclosure; or
2. Usually cultivated or improved.

893.26 Adverse possession, founded on recorded written instrument. (1) An action for the recovery or the possession of real estate and a defense or counterclaim based upon title to real estate are barred by uninterrupted adverse possession of 10 years, except as provided by s. 893.14 and 893.29. A person who in connection with his or her predecessors in interest is in uninterrupted adverse possession of real estate for 10 years, except as provided by s. 893.29, may commence an action to establish title under ch. 841.

(2) Real estate is held adversely under this section or s. 893.27 only if:

(a) The person possessing the real estate or his or her predecessor in interest, originally entered into possession of the real estate under a good faith claim of title, exclusive of any other right, founded upon a written instrument as a conveyance of the real estate or upon a judgment of a competent court;

(b) The written instrument or judgment under which entry was made is recorded within 30 days of entry with the register of deeds of the county where the real estate lies; and

(c) The person possessing the real estate, in connection with his or her predecessors in interest, is in actual continued occupation of all or a material portion of the real estate described in the written instrument or judgment after the original entry as provided by par. (a), under claim of title, exclusive of any other right.

(3) If sub. (2) is satisfied all real estate included in the written instrument or judgment upon which the entry is based is adversely possessed and occupied under this section, except if the real estate consists of a tract divided into lots the possession of one lot does not constitute the possession of any other lot of the same tract.

(4) Facts which constitute possession and occupation of real estate under this section and s. 893.27 include, but are not limited to, the following:

(a) Where it has been usually cultivated or improved;

(b) Where it has been protected by a substantial inclosure;

(c) Where, although not inclosed, it has been used for the supply of fuel or of fencing timber for the purpose of husbandry or for the ordinary use of the occupant; or

(d) Where a known farm or single lot has been partly improved the portion of the farm or lot that is left not cleared or not inclosed, according to the usual course and custom of the adjoining country, is deemed to have been occupied for the same length of time as the part improved or cultivated.

(5) For the purpose of this section and s. 893.27 it is presumed, unless rebutted, that entry and claim of title are made in good faith.

893.27 Adverse possession; founded on recorded title claim and payment of taxes. (1) An action for the recovery or the possession of real estate and a defense or counterclaim based upon title to real estate are barred by uninterrupted adverse possession of 7 years, except as provided by s. 893.14 or 893.29. A person who in connection with his or her predecessors in interest is in uninterrupted adverse possession of real estate for 7 years, except as provided by s. 893.29, may commence an action to establish title under ch. 841.

(2) Real estate is possessed adversely under this section as provided by s. 893.26 (2) to (5) and only if:

(a) Any conveyance of the interest evidenced by the written instrument or judgment under which the original entry was made is recorded with the register of deeds of the county in which the real estate lies within 30 days after execution; and

(b) The person possessing it or his or her predecessor in interest pays all real estate taxes, or other taxes levied, or payments required, in lieu of real estate taxes for the 7-year period after the original entry.

893.28 Prescriptive rights by adverse user. (1) Continuous adverse use of rights in real estate of another for at least 20 years, except as provided in s. 893.29 establishes the prescriptive right to continue the use. Any person who in connection with his or her predecessor in interest has made continuous adverse use of rights in the land of another for 20 years, except as provided by s. 893.29, may commence an action to establish prescriptive rights under ch. 843.

(2) Continuous use of rights in real estate of another for at least 10 years by a domestic corporation organized to furnish telegraph or telephone service or transmit heat, power or electric current to the public or for public purposes, or a cooperative association organized under ch. 185 to furnish telegraph or telephone service or transmit heat, power or electric current to its members, establishes the prescriptive right to continue the use, except as provided by s. 893.29. A person who has established a prescriptive right under this subsection may commence an action to establish prescriptive rights under ch. 843.

(3) The mere use of a way over unenclosed land is presumed to be permissive and not adverse.

893.29 Adverse possession against the state or political subdivisions, special provision.

Title to or interest in real property belonging to the state or a city, village, town, county, school district, sewerage commission, sewerage district or any other unit of government within this state may be obtained by adverse possession, prescription or user under s. 893.25, 893.26, 893.27 or 893.28 only if the adverse possession, prescription or user continues uninterruptedly for more than 20 years. No title to real property held in trust by the state under s. 24.01 (2) to (6) shall be obtained by adverse possession, prescription or user.

893.30 Presumption from legal title. In every action to recover or for the possession of real property, and in every defense based on legal title, the person establishing a legal title to the premises is presumed to have been in possession of the premises within the time required by law, and the occupation of such premises by another person shall be deemed to have been under and in subordination to the legal title unless it appears that such premises have been held and possessed adversely to the legal title for 7 years under s. 893.27, 10 years under s. 893.26 or 20 years under s. 893.25, before the commencement of the action.

893.31 Tenant's possession that of landlord. Whenever the relation of landlord and tenant exists between any persons the possession of the tenant is the possession of the landlord until the expiration of 10 years from the termination of the tenancy; or if there is no written lease until the expiration of 10 years from the time of the last payment of rent, notwithstanding that the tenant may have acquired another title or may have claimed to hold adversely to his or her landlord. The period of limitation provided by s. 893.25, 893.26 or 893.27 shall not commence until the period provided in this section expires.

893.32 Entry upon real estate, when valid as interruption of adverse possession. No entry upon real estate is sufficient or valid as an interruption of adverse possession of the real estate unless an action is commenced against the adverse possessor within one year after the entry and before the applicable adverse possession period of limitation specified in this subchapter has run, or unless the entry in fact terminates the adverse possession and is followed by possession by the person making the entry.

893.33 Action concerning real estate. (1) In this section "purchaser" means a person to whom an estate, mortgage, lease or other interest in real estate is conveyed, assigned or leased for a valuable consideration.

(2) Except as provided in subs. (5) to (9), no action affecting the possession or title of any real estate may be commenced, and no defense or counterclaim may be asserted, by any person, the state or a political subdivision or municipal corporation of the state after January 1, 1943, which is founded upon any unrecorded instrument executed more than 30 years prior to the date of commencement of the action, or upon any instrument recorded more than 30 years prior to the date of commencement of the action, or upon any transaction or event occurring more than 30 years prior to the date of commencement of the action, unless within 30 years after the execution of the unrecorded instrument or within 30 years after the date of recording of the recorded instrument, or within 30 years after the date of the transaction or event there is recorded in the office of the register of deeds of the county in which the real estate is located, some instrument expressly referring

to the existence of the claim or defense, or a notice setting forth the name of the claimant, a description of the real estate affected and of the instrument or transaction or event on which the claim or defense is founded, with its date and the volume and page of its recording, if it is recorded, and a statement of the claims made. This notice may be discharged the same as a notice of pendency of action. Such notice or instrument recorded after the expiration of 30 years shall be likewise effective, except as to the rights of a purchaser of the real estate or any interest in the real estate which may have arisen after the expiration of the 30 years and prior to the recording.

(3) The recording of a notice under sub. (2), or of an instrument expressly referring to the existence of the claim, extends for 30 years from the date of recording the time in which any action, defense or counterclaim founded upon the written instrument or transaction or event referred to in the notice or recorded instrument may be commenced or asserted. Like notices or instruments may thereafter be recorded with the same effect before the expiration of each successive 30-year period.

(4) This section does not extend the right to commence any action or assert any defense or counterclaim beyond the date at which the right would be extinguished by any other statute.

(5) This section bars all claims to an interest in real property, whether rights based on marriage, remainders, reversions and reverter clauses in covenants restricting the use of real estate, mortgage liens, old tax deeds, inheritance, gift and income tax liens, rights as heirs or under will, or any claim of any nature, however denominated, and whether such claims are asserted by a person sui juris or under disability, whether such person is within or without the state, and whether such person is natural or corporate, or private or governmental, unless within the 30-year period provided by sub. (2) there has been recorded in the office of the register of deeds some instrument expressly referring to the existence of the claim, or a notice pursuant to this section. This section does not apply to any action commenced or any defense or counterclaim asserted, by any person who is in possession of the real estate involved as owner at the time the action is commenced. This section does not apply to any real estate or interest in real estate while the record title to the real estate or interest in real estate remains in a railroad corporation or a public service corporation as defined in s. 184.01, or any trustee or receiver of a railroad corporation or a public service corporation, or to claims or actions founded upon mortgages or trust deeds executed by those corporations, or trustees or receivers of those corporations. This section also does not apply to real estate or on interest in real estate while the record title to the real estate or interest in real estate remains in the state or a political subdivision or municipal corporation of this state.

(6) Actions to enforce easements, or covenants restricting the use of real estate, set forth in any recorded instrument shall not be barred by this section for a period of 40 years after the date of recording such instrument, and the timely recording of an instrument expressly referring to the easements or covenants or of notices pursuant to this section shall extend such time for 40-year periods from the recording.

(7) Only the following may assert this section as a defense or in an action to establish title:

(a) A purchaser of real estate; or

(b) A successor of a purchaser of real estate, if the time for commencement of an action or assertion of a defense or counterclaim under this section had expired at the time the rights of the purchaser in the real estate arose.

(8) If a period of limitation prescribed in s. 893.15 (5), 1977 stats., has begun to run prior to the effective date of this act (1979), an action shall be commenced within the period prescribed by s. 893.15, 1977 stats., or 40 years after the effective date of this act (1979), whichever first terminates.

(9) Section 893.15, 1977 stats., does not apply to extend the time for commencement of an action or assertion of a defense or counterclaim with respect to an instrument or notice recorded on or after the effective date of this act (1979). If a cause of action is subject to sub. (8) the recording of an instrument or notice as provided by this section after the effective date of this act (1979) extends the time for commencement of an action or assertion of a defense or counterclaim as provided in this section, except that the time within which the notice or instrument must be recorded if the time is to be extended as to purchasers is the time limited by sub. (8).

893.35 Action to recover personal property. An action to recover personal property shall be commenced within 6 years after the cause of action accrues or be barred. The cause of action accrues at the time the wrongful taking or conversion occurs, or the wrongful detention begins. An action for damage for wrongful taking, conversion or detention of personal property shall be commenced within the time limited by s. 893.51.

SUBCHAPTER IV

ACTIONS RELATING TO CONTRACTS AND COURT JUDGMENTS

893.40 Action on judgment or decree; court of records. An action upon a judgment or decree of a court of record of any state or of the United States shall be commenced within 20 years after the judgment or decree is entered or be barred.

893.41 Breach of contract to marry; action to recover property. An action to recover property procured by fraud by a party in representing that he or she intended to marry the party providing the property and not breach the contract to marry, to which s. 248.06 applies, shall be commenced within one year after the breach of the contract to marry.

893.42 Action on a judgment of court not of record. An action upon a judgment of a court not of record shall be commenced within 6 years of entry of judgment or be barred.

893.43 Action on contract. An action upon any contract, obligation or liability, express or implied, including an action to recover fees for professional services, except those mentioned in s. 893.40, shall be commenced within 6 years after the cause of action accrues or be barred.

893.44 Compensation for personal service. Any action to recover unpaid salary, wages or other compensation for personal services, except actions to recover fees for professional services, shall be commenced within 2 years after the cause of action accrues or be barred.

893.45 Acknowledgment or new promise. No acknowledgment or promise shall be sufficient evidence of a new or continuing contract, whereby to take the cause out of the operation of this chapter, unless the same be contained in some writing signed by the party to be charged thereby.

893.46 Acknowledgment, who not bound by. If there are 2 or more joint contractors or joint administrators of any contractor no such joint contractor, executor or administrator shall lose the benefit of this chapter so as to be chargeable by reason only of any acknowledgment or promise made by any other of them.

893.47 Actions against parties jointly liable. In actions commenced against 2 or more joint contractors or joint executors or administrators of any contractors, if it shall appear, on the trial or otherwise, that the plaintiff is barred by this chapter as to one or more of the defendants, but is entitled to recover against any other or others of them, by virtue of a new acknowledgment or promise, or otherwise, judgment shall be given for the plaintiff as to any of the defendants against whom the plaintiff is entitled to recover and for the other defendant or defendants against the plaintiff.

893.48 Payment, effect of, not altered. Nothing contained in ss. 893.44 to 893.47 shall alter, take away or lessen the effect of a payment of any principal or interest made by any person, but no indorsement or memorandum of any such payment, written or made upon any promissory note, bill of exchange or other writing, by or on behalf of the party to

whom the payment is made or purports to be made, is sufficient proof of the payment so as to take the case out of the operation of this chapter.

893.49 Payment by one not to affect others. If there are 2 or more joint contractors or joint executors or administrators of any contractor no one of them shall lose the benefit of this chapter, so as to be chargeable, by reason only of any payment made by any other of them.

893.50 Other actions. All personal actions on any contract not limited by this chapter or any other law of this state shall be brought within 10 years after the accruing of the cause of action.

SUBCHAPTER V

TORT ACTIONS

893.51 Action for wrongful taking of personal property. An action to recover damages for the wrongful taking, conversion or detention of personal property shall be commenced within 6 years after the cause of action accrues or be barred. The cause of action accrues at the time the wrongful taking or conversion occurs, or the wrongful detention begins.

893.52 Action for damages for injury to property. An action, not arising on contract, to recover damages for an injury to real or personal property shall be commenced within 6 years after the cause of action accrues or be barred, except in the case where a different period is expressly prescribed.

893.53 Action for injury to character or other rights. An action to recover damages for an injury to the character or rights of another, not arising on contract, shall be commenced within 6 years after the cause of action accrues, except where a different period is expressly prescribed, or be barred.

893.54 Injury to the person. The following actions shall be commenced within 3 years or be barred:

- (1) An action to recover damages for injuries to the person.
- (2) An action brought to recover damages for death caused by the wrongful act, neglect or default of another.

893.55 Limitation of actions; medical malpractice. (1) Except as provided by subs. (2) and (3), an action to recover damages for injury arising from any treatment or operation performed by, or from any omission by, a person who is a health care provider, regardless of the theory on which the action is based, shall be commenced within the later of:

- (a) Three years from the date of the injury, or
- (b) One year from the date the injury was discovered or, in the exercise of reasonable diligence should have been discovered, except that an action may not be commenced under this paragraph more than 5 years from the date of the act or omission.

(2) If a health care provider conceals from a patient a prior act or omission of the provider which has resulted in injury to the patient, an action shall be commenced within one year from the date the patient discovers the concealment or, in the exercise of reasonable diligence, should have discovered the concealment or within the time limitation provided by sub. (1), whichever is later.

(3) When a foreign object which has no therapeutic or diagnostic purpose or effect has been left in a patient's body, an action shall be commenced within one year after the patient is aware or, in the exercise of reasonable care, should have been aware of the presence of the object or within the time limitation provided by sub. (1), whichever is later.

893.56 Health care providers; minors actions. Any person under the age of 18, who is not under disability by reason of insanity, developmental disability or imprisonment, shall bring an action to recover damages for injuries to the person arising from any treatment

or operation performed by, or for any omission by a health care provider within the time limitation under s. 893.55 or by the time that person reaches the age of 10 years, whichever is later. That action shall be brought by the parent, guardian or other person having custody of the minor within the time limit set forth in this section.

893.57 Intentional torts. An action to recover damages for libel, slander, assault, battery, invasion of privacy, false imprisonment or other intentional tort to the person shall be commenced within 2 years after the cause of action accrues or be barred.

893.58 Actions concerning seduction. All actions for damages for seduction shall be commenced within one year after the cause of action accrues or be barred.

893.59 Actions concerning damage to highway or railroad grade. An action under s. 88.87 (3) (b) to recover damages to a highway or railroad grade shall be commenced within 90 days after the alleged damage occurred or be barred.

SUBCHAPTER VI

ACTIONS RELATED TO FINANCIAL TRANSACTIONS OR GOVERNMENTAL OBLIGATIONS

893.60 What actions not affected. Actions against directors or stockholders of a moneyed corporation or banking association to recover a forfeiture imposed or to enforce a liability created by law shall be commenced within 6 years after the discovery by the aggrieved party of the facts upon which the forfeiture attached or the liability was created or be barred.

893.61 Contract for payment of money; governmental subdivisions. An action upon any bond, coupon, interest warrant or other contract for the payment of money, whether sealed or otherwise, made or issued by any town, county, city, village, school district or vocational, technical and adult education district in this state shall be commenced within 6 years after the cause of action accrues or be barred.

893.62 Action concerning usury. An action under s. 138.06 (3) for interest, principal and charges paid on a loan or forbearance shall be commenced within 2 years after the interest which is at a rate greater than allowed under s. 138.05 is paid or be barred.

893.63 Actions on cashier's check, certified check, or bank money order. (1) Upon the expiration of 2 years from the date of any cashier's check, certified check or bank money order, there having been no presentment for payment of the check or money order by a holder thereof, the maker shall, upon demand, return to the remitter noted thereon, if any, the full face amount of the cashier's check, certified check or bank money order, and thereafter shall be relieved of any and all liability upon the cashier's check, certified check or bank money order, to the remitter, the payee or any other holder thereof.

(2) Subsection (1) applies to all cashier's checks, certified checks and bank money orders, which have been made before November 2, 1969 but were not presented for payment by a holder within 2 years of their date, but an action by the remitter of a cashier's check, certified check and bank money order, to recover moneys held by a bank beyond the time limited by sub. (1) shall be subject to s. 893.43.

893.64 Actions upon accounts. In actions brought to recover the balance due upon a mutual and open account current the cause of action shall be deemed to have accrued at the time of the last item proved in such account.

893.65 Bank bills not affected. This chapter does not apply to any action brought upon any bills, notes or other evidences of debt issued or put into circulation as money by a bank or other person.

SUBCHAPTER VII

ACTIONS RELATING TO GOVERNMENTAL DECISIONS OR ORGANIZATION

893.70 Action against certain officials. An action against a sheriff, coroner, medical examiner, town clerk, or constable upon a liability incurred by the doing of an act in his or

her official capacity and in virtue of his or her office or by the omission of an official duty, including the nonpayment of money collected upon execution, shall be commenced within 3 years after the cause of action accrues or be barred. This section does not apply to an action for an escape.

893.71 County seat; contesting change. An action or proceeding to test the validity of a change of any county seat shall be commenced within 3 years after the date of the publication of the governor's proclamation of such change or be barred. Every defense founded upon the invalidity of any such change must be interposed within 3 years after the date of the aforesaid publication, and the time of commencement of the action or proceeding to which any such defense is made shall be deemed the time when such defense is interposed.

893.72 Actions contesting special assessment. An action to avoid any special assessment, or taxes levied pursuant to the same, or to restrain the levy of such taxes or the sale of lands for the nonpayment of such taxes, shall be brought within one year from the notice thereof, and not thereafter. This limitation shall cure all defects in the proceedings, and defects of power on the part of the officers making the assessment, except in cases where the lands are not liable to the assessment, or the city has no power to make any such assessment, or the amount of the assessment has been paid or a redemption made.

893.73 Actions contesting governmental decisions. (1) The following actions are barred unless brought within 180 days after the adoption of the order, resolution, ordinance or ordinance amendment contested:

(a) An action to contest the validity of a county zoning ordinance or amendment, if s. 59.97 (14) applies to the action.

(b) A petition for certiorari or other proceeding under s. 60.05 (4) contesting proceedings to constitute or divide a town.

(c) An action contesting the validity of the creation of a soil and water conservation district, if s. 92.16 applies to the action.

(2) The following actions are barred unless brought within 90 days after the adoption of the order, annexation ordinance or final determination of the action contested:

(a) An action under s. 60.304 contesting an act of a town board in the establishment of a town sanitary district.

(b) An action to contest the validity of an annexation, if s. 66.021 (10) (a) applies to the action.

(c) A petition for certiorari or other action under s. 80.34 (2) to contest the validity of an order regarding a highway or highway records.

893.74 School district; contesting validity. No appeal or other action attacking the legality of the formation of a school district, either directly or indirectly, may be commenced after the school district has exercised the rights and privileges of a school district for a period of 90 days.

893.75 Limitation of action attacking municipal contracts. Whenever the proper officers of any city or village, however incorporated, enter into any contract in manner and form as prescribed by statute, and either party to the contract has procured or furnished materials or expended money under the terms of the contract, no action or proceedings may be maintained to test the validity of the contract unless the action or proceeding is commenced within 60 days after the date of the signing of the contract.

893.76 Order to repair or remove building; contesting. An application under s. 66.05 (3) to a circuit court for an order restraining the inspector of buildings or other designated officer from razing and removing a building or part of a building shall be made within 30 days after service of the order issued under s. 66.05 (1) or be barred.

893.77 Validity of municipal obligation. (1) An action to contest the validity of any municipal obligation which has been certified by an attorney in the manner provided in s. 67.025, for other than constitutional reasons, must be commenced within 30 days after the recording of such certificate as provided by s. 67.025. An action to contest the validity of any state or state authority obligation for other than constitutional reasons must be commenced within 30 days after the adoption of the authorizing resolution for such obligation.

(2) An action or proceeding to contest the validity of any municipal bond or other financing, other than an obligation certified as described in sub. (1), for other than constitutional reasons, must be commenced within 30 days after the date on which the issuer thereof publishes in the issuer's official newspaper, or, if none exists, in a newspaper having general circulation within the issuer's boundaries, a class 1 notice, under ch. 985, authorized by the governing body of such issuer, and setting forth the name of the issuer, that the notice is given pursuant to this section of the statutes, the amount of the bond issue or other financing and the anticipated date of closing of such bond or other financing and that a copy of proceedings had to date of the notice are on file and available for inspection in a therein designated office of the issuer. Such notice may not be published until after the issuer has entered into a contract for sale of the bond or other financing.

(3) An action contesting bonds of a municipal power district organized under ch. 198, for other than constitutional reasons, shall be commenced within 30 days after the date of their issuance or be barred.

SUBCHAPTER VIII

CLAIMS AGAINST

GOVERNMENTAL BODIES, OFFICERS AND EMPLOYEES

(to precede s. 893.80)

893.84 State liable for aircraft or motor vehicle damage; notice of and claim. (1) No action to recover damages under s. 114.065 or 345.05 against the state may be commenced unless, within 120 days after the happening of the event giving rise to the claim, notice of claim is filed. The notice shall contain a statement of the facts establishing the negligence upon which the claim is based and a description of the nature of the injuries or damages for which claim is or will later be filed.

(2) The manner, form and place for filing a notice of or a claim for damages for which the state is liable under s. 114.065 or 345.05 is as provided by s. 16.53 (8). Failure of the legislature to pass upon the claim within 60 days after presentation constitutes disallowance. Recess periods and periods between sessions due to sine die adjournments are included in arriving at the 60 days. Any disallowance bars any action founded on the claim unless brought within 6 months after disallowance. Actions under s. 114.065 or 345.05 against the state and payment of the amount recovered shall be as provided in ss. 285.01 and 285.04.

(3) In addition to its duties under s. 16.53 (8) the department of administration shall transmit a copy of the notice or claim to the attorney general.

(4) The attorney general shall obtain information relating to the event giving rise to the claim and make a report on the claim to the legislature.

SUBCHAPTER IX

STATUTES OF LIMITATION;

ACTIONS BY THE STATE, STATUTORY LIABILITY AND MISCELLANEOUS ACTIONS

893.85 Action concerning old-age assistance lien. (1) An action to collect an old-age assistance lien filed under s. 49.26, 1971 stats., prior to August 5, 1973, must be commenced within 10 years after the date of filing of the required certificate under s. 49.26 (4), 1971 stats.

(2) No claim under s. 49.25, 1971 stats., may be presented more than 10 years after the date of the most recent old-age assistance payment covered by the claim.

893.86 Action concerning recovery of legal fees paid for indigents. An action under s. 757.66 to recover an amount paid by a county for legal representation of an indigent defendant shall be commenced within 10 years after the filing of the claim required under s. 757.66 or be barred.

893.87 General limitation of action in favor of the state. Any action in favor of the state, if no other limitation is prescribed in this chapter, shall be commenced within 10 years after the cause of action accrues or be barred. No cause of action in favor of the state for relief on the ground of fraud shall be deemed to have accrued until discovery on the part of the state of the facts constituting the fraud.

893.88 Paternity actions. Within 6 years of the date of birth of a child or if the parents live together as man and wife after the birth of the child 6 years after they separate, an action under ch. 52 for the establishment of the paternity of the child shall be commenced or be barred. This limitation does not apply if the parties enter into an agreement for the support of the child in accordance with s. 52.28 or where a 2nd proceeding is had under s. 52.31 (2). Where a warrant or summons under ch. 52 has been issued within the 6 years, ss. 893.19 and 939.74 (3) are applicable in computing time under this section.

893.89 Action for injury resulting from improvements to real property. No action to recover damages for any injury to property, or for an injury to the person, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of such injury, shall be brought against any person performing or furnishing the design, land surveying, planning, supervision of construction, materials or construction of such improvement to real property, more than 6 years after the substantial completion of construction. If the injury or defect occurs or is discovered more than 5 years but less than 6 years after the substantial completion of construction, the time for bringing the action shall be extended 6 months.

893.90 Bond; campaign financing; lobbying. (1) An action by the state or any of its departments or agencies or by any county, town, village, city, school district, vocational, technical and adult education district or other municipal unit to recover any sum of money by reason of the breach of an official bond or the breach of a bond of any nature, whether required by law or not, given by a public officer or any agent or employe of a governmental unit shall be commenced within 3 years after the governmental unit receives knowledge of the fact that a default has occurred in some of the conditions of the bond and that it was damaged because of the default or be barred.

(2) Any civil action arising under ch. 11 or subch. III of ch. 13 shall be commenced within 3 years after the cause of action accrues or be barred.

893.91 Action for expenses related to a forest fire. An action by a state or town under s. 26.14 (9) (b) to recover expenses incurred in the suppression of a forest fire shall be commenced within 2 years of the setting of the fire or be barred.

893.92 Action for contribution. An action for contribution based on tort, if the right of contribution does not arise out of a prior judgment allocating the comparative negligence between the parties, shall be commenced within one year after the cause of action accrues or be barred.

893.93 Miscellaneous actions. (1) The following actions shall be commenced within 6 years after the cause of action accrues or be barred:

(a) An action upon a liability created by statute when a different limitation is not prescribed by law.

(b) An action for relief on the ground of fraud. The cause of action in such case is not deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud.

(c) An action upon a claim, whether arising on contract or otherwise, against a decedent or against a decedent's estate, unless probate of the estate in this state is commenced within 6 years after the decedent's death.

(d) An action under s. 968.31.

(2) The following actions shall be commenced within 2 years after the cause of action accrues or be barred:

(a) An action by a private party upon a statute penalty, or forfeiture when the action is given to the party prosecuting therefor and the state, except when the statute imposing it provides a different limitation.

(b) An action to recover a forfeiture or penalty imposed by any bylaw, ordinance or regulation of any town, county, city or village or of any corporation organized under the laws of this state, when no other limitation is prescribed by law.

(3) The following actions shall be commenced within one year after the cause of action accrues or be barred:

(a) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(b) An action under ch. 135.

SECTION 29. 895.43 of the statutes is renumbered 893.80, and 893.80 (title), as renumbered, is amended to read:

893.80 (title) Claims against governmental bodies or officers, agents or employes; notice of injury; limitation of damages and suits.

SECTION 30. 895.45 of the statutes is renumbered 893.82, and 893.82 (title) and (1), as renumbered, are amended to read:

893.82 (title) Claims against state employes; notice of claim; limitation of damages.

(1) No civil action or civil proceeding may be brought against any state officer, employe or agent for or on account of any act growing out of or committed in the course of the discharge of such officer's, employe's or agent's duties, unless within ~~90~~ 120 days of the event causing the injury, damage or death giving rise to the civil action or civil proceeding, the claimant in the action or proceeding serves upon the attorney general written notice of a claim stating the time, date, location and the circumstances of the event giving rise to the claim for the injury, damage or death and the names of persons involved, including the name of the state officer, employe or agent involved.

SECTION 31. **Applicability.** (1) An ordinance in effect on the effective date of this act which was adopted under section 66.044, 1977 stats., applies to a claim which accrues prior to the effective date of this act.

(2) Sections 893.35, 893.48 and 893.49, 1977 stats., apply to a cause of action if an action, defense or counterclaim based upon the cause of action reaches final disposition as defined by section 893.13 of the statutes as created by this act prior to the effective date of this act. Otherwise sections 893.13 to 893.15 of the statutes as created by this act apply and the tolling of a law limiting the time for commencement of an action or assertion of a defense or counterclaim by those sections is retrospective in application.

(3) If a period of limitation prescribed by section 26.14 (9) (b), 59.665, 59.97 (14), 60.05 (4), 60.304, 66.021 (10) (a), 66.05 (3), 80.34 (2), 92.16, 117.01 (7) or 182.017 (5) of the 1977 statutes has begun to run prior to the effective date of this act, those sections of the 1977 statutes apply to limit the time for commencement of an action, proceeding or appeal rather than chapter 893 of the statutes.

(4) Section 893.245 of the 1977 statutes applies to a cause of action which accrues prior to the effective date of this act.

(5) The treatment of sections 114.065 (2) to (5), 345.05 (3) (intro.) and (a) and (4) and 895.45 of the statutes and the creation of section 893.84 of the statutes applies only to a cause of action which accrues on or after the effective date of this act and those sections prior to their treatment by this act apply to a cause of action which accrues prior to the effective date of this act.

(6) Section 182.017 (5), 1977 stats., applies to use or possession of land which commenced prior to the effective date of this act.

SECTION 32. Program responsibilities. (1) **DEPARTMENT OF ADMINISTRATION.** In the list of program responsibilities specified for the department of administration under section 15.101 (intro.) of the statutes, reference to section "114.065 (3)" is deleted and reference to section "893.84 (3)" is inserted.

(2) **DEPARTMENT OF JUSTICE.** In the list of program responsibilities specified for the department of justice under section 15.251 (intro.) of the statutes, reference to "114.065" is deleted and reference to "893.84 (4)" is inserted.

SECTION 33. Cross reference changes. In the sections of the statutes listed in Column A, the cross references shown in Column B are changed to the cross references shown in Column C:

A	B	C
Statute Sections	Old Cross References	New Cross References
59.76	895.43	893.80
59.77 (1)	895.43	893.80
60.36	895.43	893.80
61.24	66.042 and 66.044	66.042
61.51 (4)	895.43	893.80
62.25 (1)	895.43	893.80
66.073 (6)(h)	182.017 (8)	182.017 (7)
66.60 (12)(b)	895.43	893.80
81.15	895.43	893.80
83.19	895.43	893.80
102.29 (5)	893.205	893.54
118.26	895.43	893.80
119.68 (2)	895.43	893.80
345.05 (3)(b)	895.43	893.80
551.59 (5)	895.43 (3)	893.80 (3)
	893.30 to	893.13 and
	893.38	893.16 to 893.23
552.21 (3)	893.30 to	893.13 and
	893.38	893.16 to 893.23
705.05 (2)	893.33	893.16 or 893.18
802.06 (1)	895.45	893.82

SECTION 34. Effective date. This act takes effect on July 1, 1980, or on the day following its publication, whichever is later.