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**CHAPTER 11
TIME FOR COMMENCING ACTIONS**

- Article 1. Time of Commencing Actions Generally.
- Article 2. Commencing Actions for Recovery of Real Property.
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**ARTICLE 1
TIME OF COMMENCING ACTIONS GENERALLY**

§ 11101. Time of Commencing Actions.

Civil actions, without exception, can only be commenced within the periods prescribed in this Chapter, after the cause of action shall have accrued, unless where, in special cases, a different limitation is prescribed by law.

SOURCE: CCP § 31.

**ARTICLE 2
COMMENCING ACTIONS FOR RECOVERY OF REAL PROPERTY**

- § 11201. When Government of Guam Will Not Sue.
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Actions.

§ 11201. When Government of Guam Will Not Sue.

The government of Guam will not sue any person for or in respect to any real property, or the issue or profits thereof, by reason of the right or title of the government of Guam to the same, unless:

(a) Such right or title or cause of action shall have accrued within ten years before any action or other proceeding for the same is commenced; or,

(b) The government of Guam, or those from whom they claim, shall have received the rents and profits of such real property, or some part thereof, within the space of ten years; or,

(c) The Governor of Guam by special order shall direct an action to be brought.

SOURCE: CCP § 315.

2016 NOTE: Subsection designations were altered to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

COURT DECISIONS: Where the government of Guam received title from the United States under the Organic Act, this Section (old § 315) cannot apply to such period before Guam acquired title, as this Section cannot apply to the United States. *Government of Guam v. Gutierrez*, D.C. Guam, App. Div. (1959), 1 Guam R. 49.

Section 11201 (old § 315) cited and difference between it and Calif. CCP § 315 noted. *In re application of Anderson Iglesias*, 1 Guam R. 129, 143 (1963).

§ 11202. Action Not to be Brought by Grantee from Government.

No action can be brought for, or in respect to, real property by any person claiming under letters patent, or grants from any government of this territory, unless the same might have been commenced by the government of Guam as herein specified, in case such patent had not been issued or grant made.

SOURCE: CCP § 316.

§ 11203. Actions to be Brought Within Five Years.

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When letters patent or grants of real property issued or made by the government of Guam, or any previous government of Guam, are declared void by the determination of a competent court, an action for the recovery of the property so conveyed may be brought, either by the government of Guam, or by any subsequent patentee or grantee of the property, his heirs, or assigns, within five years after such determination, but not after that period.

SOURCE: CCP § 317.

§ 11204. Limitation of Actions Relating to Registered Land.

No person shall commence any action at law or in equity for the recovery of land, or assert any interest in or right in or lien or demand upon the same, or make entry thereon adversely to the title of interest certified in the certificate of title bringing the land under the operation of the Land Title Registration Act after one (1) year following the first registration, providing said first registration is not void for any of the reasons set forth in 21 GCA 29139. It shall be an exception to this rule that the person entitled to bring the action or make the entry is deceased, an infant, lunatic or is under any disability, but action may be brought by such person by his next kin or guardian or by the administrator or the executor of the deceased person. It shall be the duty of the guardian, if there is any, to bring action in the name of his ward whenever it is necessary to preserve or enforce the ward's rights in registered land, provided, however, before such action shall proceed, it must be made to appear to the court that the person bringing such action or those under whom he claims, had no actual notice of the proceedings to register such lands in time to appear and file an objection or a service claim. The provisions of this Section shall in no way affect or disturb the rights of any person in said land acquired subsequent to the registration there-of, modified and without knowledge and for a valuable consideration.

SOURCE: § 1157.14, Civil Code (Land Title Registration Act) [21 GCA § 29146].

COMMENT: In enacting the Land Title Registration Act, § 1157.44 was included as a separate statute of limitations relative to registered titles. It seems best to place all such statutes of limitations in one Chapter and Article to avoid confusion. This is particularly the case since what is now the Civil Code of Guam will be replaced by new Titles conforming to the concepts of the Guam Code Annotated.

CROSS-REFERENCES: 21 GCA § 20136 prohibits title to registered land to be gained by adverse possession.

COURT DECISIONS: See *Sauget v Villagomez*, (1955) 228 F.2d. 374.

§ 11205. When Seizin Necessary Within 5 years.

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No action for the recovery of real property, or for the recovery of the possession thereof, can be maintained, unless it appear that the plaintiff, his ancestor, predecessor, or grantor, was seized or possessed of the property in question, within five years before the commencement of the action.

SOURCE: CCP § 318.

NOTE: Section § 11212 of this Chapter provides that no adverse possession may be used to acquire title unless all taxes have been paid on the land claimed.

§ 11206. When Such Seizin Necessary.

No cause of action, or defense to an action, arising out of the title to real property or to rents or profits out of the same, can be effectual, unless it appears that the person prosecuting the action, or making the defense, or, under whose title the action is prosecuted, or the defense is made, or the ancestor, predecessor, or grantor of such person was seized or possessed of the premises in question within five years before the commencement of the act in respect to which such action is prosecuted or defense made. Provided that no cause of action, or defense to an action, arising out of the right in the nature of a public road, thoroughfare or highway which is acquired by the adverse and notorious use of any person or persons, can be effectual unless it appears that the person prosecuting the action, or making the defense, or the ancestor, predecessor, or grantor of such person, was seized or possessed of the premises in question within six years before the commencement of the act in respect to which such action is prosecuted or defense made.

SOURCE: CCP § 319; amended by P.L. 3-73. Calif. CCP § 319 similar, but omits reference to adverse possession of road, etc.

§ 11207. Entry on Real Estate.

No entry upon real estate is deemed sufficient or valid as a claim, unless an action be commenced thereupon within one year after making such entry, and within five years from the time when the right to make it descended or accrued.

SOURCE: CCP § 320.

§ 11208. Possession, When Presumed.

Occupation, when deemed legal. In every action for the recovery of real property, or the possession thereof, the person establishing a legal title to the property is presumed to have been possessed thereof within the time required by law, and the occupation of the property by any other person is deemed to have been under and in subordination to the legal title, unless it appears that

the property has been held and possessed adversely to such legal title for five years before the commencement of the action.

SOURCE: CCP § 321.

§ 11209. Adverse Possession Under Judgment or Writing.

When it appears that the occupant, or those under whom he claims, entered into the possession of the property under claim of title, exclusive of other right, founding such claim upon a written instrument, as being a conveyance of the property in question, or upon the decree or judgment of a competent court, and that there has been a continued occupation and possession of the property included in such instrument, decree, or judgment, or of some part of the property, under such claim, for five years, the property so included is deemed to have been held adversely, except that when it consists of a tract divided into lots, the possession of one lot is not deemed a possession of any other lot of the same tract.

SOURCE: CCP § 322.

COURT DECISIONS: For discussion of this Section (old § 322) see *Pangelinan, et al v. Sablan*, D.C. Guam, App. Div., D.C. App. #77-9A (1979), 2 Guam R. ____.

§ 11210. What Is Adverse Possession Under Written Instrument or Judgment.

For the purpose of constituting an adverse possession, by any person claiming a title founded upon a written instrument, or a judgment or decree, land is deemed to have been possessed and occupied in the following cases:

- (a) Where it has been usually cultivated or improved.
- (b) Where it has been protected by a substantial enclosure.
- (c) Where, although not enclosed, it has been used for the supply of fuel, or of fencing timber for the purposes of husbandry, or for pasturage, or for the ordinary use of the occupant.
- (d) Where a known farm or single lot has been partly improved, the portion of such farm or lot that may have been left not cleared, or not enclosed according to the usual course and custom of the adjoining country, shall be deemed to have been occupied for the same length of time as the part improved and cultivated.

SOURCE: CCP § 323.

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2016 NOTE: Subsection designations were altered to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 11211. Adverse Possession: Premises Actually Occupied Under Claim of Title.

Where it appears that there has been an actual continued occupation of land, under a claim of title, exclusive of any other right, but not founded upon a written instrument, judgment, or decree, the land so actually occupied, and no other, is deemed to have been held adversely.

SOURCE: CP § 324.

COMMENT: Court cases have long established that adverse possession cannot be made to obtain title in land owned by the government of Guam. See *In re application of Andersen Iglesias*, 1 Guam R. 129, 142.

§ 11212. Adverse Possession Under Claim Not in Writing.

For the purpose of constituting an adverse possession by a person claiming title, not founded upon a written instrument, judgment, or decree, land is deemed to have been possessed and occupied in the following cases only:

(a) Where it has been protected by a substantial enclosure;

(b) Where it has been usually cultivated or improved; provided, however, that in no case shall adverse possession be considered established under the provisions of any section or sections of this Title, unless it shall be shown that the land has been occupied and claimed for the period of ten years continuously, and the party or persons, their predecessors and grantors, have paid all the taxes which have been levied and assessed on such land.

SOURCE: CCP § 325.

2016 NOTE: Subsection designations were altered to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 11213. Relation of Landlord and Tenant -- Adverse Possession.

When the relation of landlord and tenant has existed between any persons, the possession of the tenant is deemed the possession of the landlord until expiration of five (5) years from the termination of the tenancy, or, where there has been no written lease, until the expiration of five (5) years from the time of the last payment of rent, notwithstanding that

such tenant may have acquired another title, or may have claimed to hold adversely to his landlord. But such presumptions cannot be made after the periods herein limited.

SOURCE: Guam CCP § 326.

§ 11214. Right of Possession Not Affected By Descent Cast.

The right of a person to the possession of real property is not impaired or affected by a descent cast in consequence of the death of a person in possession of such property.

SOURCE: Guam CCP § 327.

§ 11215. Certain Disabilities Excluded From Time to Commence Actions.

If a person entitled to commence an action for the recovery of real property, or for the recovery of the possession thereof, or to make any 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 first descends or accrues, either:

- (a) Under the age of majority; or
- (b) Insane.

The time, not exceeding twenty (20) years, during which such disability continues is not deemed any portion of the time in this Article 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, within the period of five years after such 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.

SOURCE: Guam CCP § 328; amended by P.L. 13-187:26.

2016 NOTE: Subsection designations were altered to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

COMMENT: The amendment deleted, as a disability the former reference to incarceration for crime. This was to conform to the passage of Titles 8 and 9 of this Code, dealing with Criminal Procedure and Crimes, respectively.

ARTICLE 3
TIME FOR COMMENCING ACTIONS FOR
OTHER THAN REAL PROPERTY

- § 11301. Periods of Limitations Prescribed.
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- § 11302. Within Five Years --.
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- § 11304. Book Account Defined.
- § 11305. Within Three Years --.
- § 11306. Within Two Years --.
- § 11306.1. Certificates of Merit. [Repealed]
- § 11307. Within One Year --.
- § 11308. Action to Recover Damages for Injuries.
- § 11309. Limitations on Actions Regarding Patent Deficiencies in Improvements in Real Estate.
- § 11310. Limitation on Actions - Latent Deficiencies in Improvements in Real Property.
- § 11311. Within Six (6) Months.
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- § 11312. Actions for Relief Not Otherwise Provided For.
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- § 11315. Actions to Redeem Certain Mortgages.
- § 11316. Where There is more than one Mortgage.
- § 11317. No Limitations; Action to Recover Deposit of Money or Property; Affect of Insolvency.

§ 11301. Periods of Limitations Prescribed.

The periods prescribed for the commencement of actions other than for the recovery of real property, are as follows.

SOURCE: CCP § 335.

§ 11301.1. No Limit for Child Sexual Abuse.

(a) Any claim arising from an incident of child sexual abuse may be commenced against a person, a legal entity, abusers, their enablers, their aiders or abettors, those acting in concert with them and their institutions at any time.

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(b) Any claim arising from an incident of child sexual abuse that occurred on Guam which has been barred by virtue of the expiration of the previous civil statute of limitations shall be permitted to be filed in any court of competent jurisdiction.

SOURCE: Added by P.L. 33-187:2 (Sept. 23, 2016).

§ 11302. Within Five Years -- .

(a) An action upon a judgment or decree of any court of the United States or of any state within the United States.

(b) An action for mesne profits of real property.

SOURCE: CCP § 336.

§ 11303. Within Four Years --.

(a) An action upon any contract, obligation or liability founded upon an instrument in writing.

(b) An action to recover

(1) upon a book account whether consisting of one (1) or more entries;

(2) upon an account stated based upon an account in writing, but the acknowledgment of the account stated need not be in writing;

(3) a balance due upon a mutual, open and current account;

provided, however, that where an account stated is based upon an account of one (1) item, and where an account stated is based upon an account of more than one (1) item, the time shall begin to run from the date of the last item.

(c) An action based upon the written rescission of a contract. The time begins to run from the date upon which occurred the facts that the aggrieved party claims permits him to rescind the contract. Where the ground for rescission is fraud or mistake, the time does not begin to run until the aggrieved party discovers the facts constituting the fraud or mistake. Where the ground for rescission is misrepresentation relating to an offer to insure or an application to obtain insurance, the time does not begin to run until the representation becomes false.

SOURCE: Guam CCP § 337, subparts (2) and (3) amended by P.L. 15-106:1.

§ 11304. Book Account Defined.

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The term book account means a statement which constitutes the principal record of one (1) or more transactions between a debtor and a creditor arising out of a contract of some fiduciary relation, and which shows the debits and credits in connection therewith, and against whom and in favor of whom the entries are made, is entered in the regular course of business as conducted by the creditor or fiduciary, and is kept in a reasonably permanent form and manner and is (1) in a bound book, or (2) on a sheet or sheets fastened in a book or to a backing but detachable therefrom, or (3) on a card or cards of a permanent character or is kept in any reasonably permanent form and manner.

SOURCE: CCP § 337a added by P.L. 15-106:3.

§ 11305. Within Three Years --.

(a) An action upon a liability created by law, other than a penalty or forfeiture.

(b) An action for trespass upon or injury to real property.

(c) An action for taking, detaining or injuring any goods, or chattels, including actions for the specific recovery of personal property.

(d) An action for relief on the ground of fraud or mistake. 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 or mistake.

(e) An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not to be deemed to have accrued until the aggrieved party or his agent shall have discovered the facts constituting the cause of action upon the bond.

(f) An action against a notary public on his bond on malfeasance or misfeasance is not deemed to have accrued until the aggrieved party shall have discovered the facts constituting the cause of action; provided, that any action based on malfeasance or misfeasance shall be commenced within one (1) year from discovery by the aggrieved party or his agent of the facts constituting the cause or action or within three (3) years from the performance of the notarial act giving rise to the action, whichever is later; and provided further, that any action against a notary public on his bond or in his official capacity must be commenced within six (6) years.

(g) An action for slander of title to real property.

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(h) An action upon a contract, obligation or liability not founded upon an instrument of writing other than that mentioned in Subsection 2 of § 11303 of this Title; or an action founded upon a contract, obligation or liability, evidenced by a certificate or abstract or guaranty of title of real property, or by a policy of title insurance; provided, that the cause of action upon a contract, obligation or liability evidenced by a certificate, or abstract or guaranty of title of real property or policy of title insurance, shall not be deemed to have accrued until the aggrieved party has discovered the loss or damage.

SOURCE: CCP § 338. Subsections 5, 6, 7 & 8 added by P.L. 15-106:4.

NOTE: Subsections (1) through (8) changed to subsections (a) through (h) by Compiler to maintain the general codification scheme of the GCA.

§ 11306. Within Two Years --.

(a) An action for assault, battery, false imprisonment, seduction of a person below the age of legal consent, or for injury to, or for the death of, a person caused by the wrongful act or neglect of another, *except* as provided for in § 11308.

(b) **[Repealed.]**

(c) **[Repealed.]**

SOURCE: CCP § 339; repealed/reenacted by P.L. 15-106:5. Amended by P.L. 31-007:2 (Mar. 9, 2011). Subsections (b) and (c) repealed by P.L. 33-187:3 (Sept. 23, 2016).

NOTE: Subsections (1) through (3) changed to subsections (a) through (c) by Compiler to maintain the general codification scheme of the GCA.

§ 11306.1. Certificates of Merit.

[Repealed.]

SOURCE: Added as § 11306.50 by P.L. 31-007:3 (Mar. 9, 2011). Renumbered by Compiler to maintain the general codification scheme of the GCA. Repealed by P.L. 33-187:4 (Sept. 23, 2016).

§ 11307. Within One Year --.

(a) An action upon a law for a penalty or forfeiture, when the action is given to an individual, or to an individual and the government, except when the law imposing it prescribes a different limitation;

(b) An action upon a law, or upon an undertaking in a criminal action, for a forfeiture or penalty to the government of Guam.

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(c) An action for libel or slander, or by a depositor against a bank for the payment of a forged or raised check, or a check that bears a forged or unauthorized endorsement.

SOURCE: CCP § 340; subsection (3) amended by P.L. 13-116:3, P.L. 15-106:6.

2016 NOTE: Subsection designations were altered to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

COMMENT: See *Pederson v. U.S.*, (1961) 191 F.Supp. 95.

§ 11308. Action to Recover Damages for Injuries.

An action to recover damages for injuries to the person arising from any medical, surgical or dental treatment, omission or operation shall be commenced with one (1) year from the date when the injury is first discovered; provided, that such action shall be commenced within three (3) years from the date of treatment, omission or operation upon which the action is based.

SOURCE: CCP § 349 added by P.L. 13-116:3, amended by P.L. 15-106:7.

NOTE: Section 8 of P.L. 15-106 provides that this section shall apply prospectively only and that no action or defense pending on the effective date shall be affected thereby.

§ 11309. Limitations on Actions Regarding Patent Deficiencies in Improvements in Real Estate.

(a) Except as otherwise provided in this Section, no action shall be brought to recover damages from any person performing or furnishing the design, specifications, surveying, planning, supervision or observation of construction or construction of an improvement to real property more than ten (10) years after the date of substantial completion of the development or improvement for any of the following:

(1) Any patent deficiency in the design, specifications, planning, supervision or observation of construction or construction of an improvement to, or survey of, real property;

(2) Injury to property, real or personal, arising out of any such patent deficiency; or

(3) Injury to the person or for wrongful death arising out of any such patent deficiency.

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(b) If, by reason of such patent deficiency, an injury to property or the person of an injury causing wrongful death occurs during the tenth (10th) year after the date of substantial completion of the development or improvement, an action in tort to recover damages for such an injury or wrongful death may be brought within one (1) year after the date on which such injury occurred, irrespective of the date of death, but in no event may such an action be brought more than eleven (11) years after the date of substantial completion of the development or improvement.

(c) Nothing in this section shall be construed as extending the period prescribed by the laws of this territory for the bringing of any action.

(d) The limitation prescribed by this section shall not be asserted as a defense by any person in actual possession or control, as owner, tenant, or otherwise, of such an improvement at the time any deficiency in such an improvement constitutes the proximate cause of the injury or death for which it is proposed to bring an action.

SOURCE: CCP § 349.1 added by P.L. 18- 43:26 (9/8/86). Subsection (a) amended by P.L. 24-90:2. Subsection (b) amended by P.L. 24-90:3.

§ 11310. Limitation on Actions - Latent Deficiencies in Improvements in Real Property.

(a) Except as otherwise provided in this Section, no action shall be brought to recover damages from any person performing or furnishing the design, specifications, surveying, planning, supervision or observation of construction or construction of an improvement to real property more than ten (10) years after the date of substantial completion of the development or improvement for any of the following:

(1) Any latent deficiency in the design, specifications, planning, supervision or observation of construction or construction of an improvement to, or survey of, real property;

(2) Injury to property, real or personal, arising out of any such patent deficiency.

(b) As used in this section, latent deficiency means a deficiency which is not apparent by reasonable inspection.

(c) As used in this section, action includes an action for indemnity brought against a person arising out of his performance or furnishing of services or materials referred to in this section, except that a cross-complaint

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for indemnity may be filed in an action which has been brought within the time period set forth in subsection (a) of this section.

(d) Nothing in this section shall be construed as extending the period prescribed by the laws of this territory for the bringing of any action.

(e) The limitation prescribed by this section shall not be asserted as a defense by any person in actual possession or control, as owner, tenant, or otherwise, of such an improvement, at the time any deficiency in such improvement constitutes the proximate cause for which it is proposed to bring an action.

(f) This section shall not apply to actions based on willful misconduct or fraudulent concealment.

SOURCE: CCP § 349.2 added by P.L. 18-43:27 (09/08/86). Subsection (a) amended by P.L. 24-90:4.

§ 11311. Within six (6) Months, an Action Against an Officer, or Officer De Facto:

(a) to recover any goods, wares, merchandise or other property seized by such officer in his official capacity as tax collector, or to recover the price or value of any goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention, sale of or injury to any goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making any such seizure;

(b) to recover stock sold for a delinquent assessment, as provided in 18 GCA § 3212;

(c) to set aside or invalidate any action taken or performed by a majority of the trustees of any corporation heretofore or hereafter dissolved by operation of law, including the revivor of any such corporation;

(d) to bring an action upon a claim by a public school student for denial of an adequate public education.

The lack of funding or failure to release allotments shall not constitute a defense to claims under this Section unless the named respondent, before commencement of the claim under this Section, files an action to release such funding against the responsible party withholding such funds or allotments.

SOURCE: CCP § 341. Amended by P.L. 28-045:15, effective, October 1, 2007.

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2016 NOTE: Subsection designations were altered/added to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

In past print publications of the GCA, subsection (b) contained a reference to § 339 of the Civil Code, which was codified as 18 GCA § 3212. Pursuant to the authority of 1 GCA § 1606, the Compiler changed the reference to the current citation in the GCA.

§ 11311.1. Inverse Condemnation.

Any person whose land was expropriated for public purposes by the government of Guam between August 1, 1950, and July 1, 1994, and who has not been compensated by the government of Guam for such taking may institute an action for inverse condemnation. In any taking by the government of Guam after July 1, 1994, in which the government fails to follow the eminent domain provisions of Title 21, Guam Code Annotated, the person whose land is taken shall have four (4) years from the time of such taking to institute an action for inverse condemnation. An action shall lie for the taking of a person's fee or for lesser compensable interest in the property which has been expropriated by the government of Guam without according the person due process. In any action for inverse condemnation in which an award is made to a person for a taking, the court shall also award reasonable attorney's fees and costs.

SOURCE: Added by P.L. 22-73:9 as § 341.1. Amended by P.L. 23-128:IV:32.

§ 11312. Actions for Relief Not Otherwise Provided For.

An action for relief not otherwise provided for must be commenced within four (4) years after the cause of action shall have accrued.

SOURCE: CCP § 343.

CROSS-REFERENCES: For limitations on actions involving damages against the Government of Guam, see the Government Claims Act in Title 5 of this Code.

§ 11313. Cause of Action Upon a Mutual Account.

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 is deemed to have accrued from the time of the last item proved in the account on either side.

SOURCE: CCP § 344.

CROSS-REFERENCES: § 11303 of this Chapter.

§ 11314. Limitation on Actions by Government.

The limitations prescribed in this Article apply to actions brought in the name of the government or for the benefit of the government, in the same manner as to actions by private parties, except that actions for the recovery of money due on account of the support of patients in hospitals may be commenced at any time within four (4) years after the accrual of the same.

SOURCE: CCP § 345.

COMMENT: Chapter is changed to Article to reflect the arrangement of this Title.

§ 11315. Actions to Redeem Certain Mortgages.

An action to redeem a mortgage of real property, with or without an account of rents and profits, may be brought by the mortgagor or those claiming under him against the mortgagee in possession, or those claiming under him, unless he or they have continuously maintained an adverse possession of the mortgaged premises for five (5) years after breach of some condition of the mortgage.

SOURCE: CCP § 346.

§ 11316. Where There is More than One Mortgage.

If there is more than one such mortgagor, or more than one person claiming under a mortgagor, some of whom are not entitled to maintain such an action under the provision of this Article, any one of them who is entitled to maintain such an action may redeem therein a divided or undivided part of the mortgaged premises, according as his interest may appear, and have an accounting for a part of the rents and profits proportionate to his interest in the mortgaged premises, on payment of a part of the mortgaged money, bearing the same proportion to the whole of such money as the value of his divided or undivided interest in the premises bears to the whole of such premises.

SOURCE: CCP § 347.

§ 11317. No Limitations; Action to Recover Deposit of Money or Property; Affect of Insolvency.

To actions brought to recover money or other property deposited with any bank, banker, trust company, building and loan association, or savings and loan society there is no limitation.

This Section shall not apply to banks, bankers, trust companies, building and loan associations, and savings and loan societies which have become insolvent and are in process of liquidation and in such cases the

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statute of limitations shall have been deemed to have commenced to run from the beginning of the process of liquidation; provided, however, nothing herein contained shall be construed so as to relieve any stockholder of any banking corporation or trust company from stockholders' liability as shall at any time be provided by law.

SOURCE: CCP § 348.

CROSS-REFERENCES: A new statute of limitations and method for claiming dormant bank accounts is provided for in 30047 of the Government (Banking) Code. Essentially, the period is five years after the dormant funds have been transferred to the Government of Guam and claim must be made against the Government, not the banking institution. P.L. 18-37:12 (5/30/86).

ARTICLE 4
GENERAL PROVISIONS RELATIVE TO
COMMENCEMENT OF ACTIONS

- § 11401. When an Action is Commenced.
- § 11402. Exposure to Asbestos, Actions for Injury, Illness or Wrongful Death.
- § 11403. Where Defendant is Out of Guam.
- § 11404. Exception for Persons Under Disabilities.
- § 11405. Death Before Expiration of Limitation.
- § 11406. Disability During War; Effect on Limitation Period.
- § 11407. Provision Where Judgment has been Reversed.
- § 11408. Provision Where Action is Stayed by Injunction.
- § 11409. Disability Existing When Action Accrues.
- § 11410. When Two or More Disabilities Exist.
- § 11411. Limitations Against Directors or Stockholders.
- § 11412. Acknowledgment or New Promise.
- § 11413. Effect of Limitation Laws of Other States or Countries.
- § 11414. Existing Causes of Action Not Affected.
- § 11415. Action Defined.
- § 11416. Exception.

§ 11401. When an Action Is Commenced.

An action is commenced within the meaning of this Title when the complaint is filed.

SOURCE: CCP § 350.

§ 11402. Exposure to Asbestos, Actions for Injury, Illness or Wrongful Death.

(a) In any civil action for injury or illness based upon exposure to asbestos, chemicals, or other toxic agents, the time for the commencement of the action shall be the later of the following:

(1) Within two (2) years after the date the plaintiff first suffered disability and either before or after suffering the disability the plaintiff was informed by a licensed physician, clearly and comprehensively, to the degree that the plaintiff is capable of understanding, that he was diagnosed as having any one or more of the following several and distinct injuries, pleural disease, or pulmonary asbestosis, or malignant mesothelioma, or other carcinoma or other specific asbestos-related injury, causing the disability; or

(2) Within two (2) years after the date the plaintiff either knew, or through the exercise of reasonable diligence should have known,

(A) that such disability was caused or contributed to by such exposure and

(B) that the disability or injury was caused by a violation of a duty towards the plaintiff; or

(3) Two (2) years from the effective date of this Act.

(b) Disability as used in Subsection (a) of this Section means the loss of time from work as a result of exposure to asbestos, which precludes the performance of the employee's regular occupation.

(c) In an action for the wrongful death of any plaintiff's decedent, based upon exposure to asbestos, the time for commencement of an action shall be the later of the following:

(1) Within two (2) years from the date of death of the plaintiff's decedent, or the date of enactment of this Act, whichever is later; or

(2) Within two (2) years from the date the plaintiff first knew, or through the exercise of reasonable diligence should have known, that the death was caused or contributed to by such exposure.

(d) The provisions of this Section shall apply retroactively to all unfiled claims and to all pending litigation in the courts of Guam, or which are on

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appeal. Pending litigation as used in this Subsection shall include any action that has been filed in the courts of Guam.

(e) The burden of proving that this Section is a bar to any cause of action for illness, injury, property damage or wrongful death is upon the party asserting this section as a defense.

(f) Nothing in this Section shall be construed as waiving the sovereign immunity of the government of Guam.

(g) This Section shall not change the statute of limitations for any claim against the government of Guam.

SOURCE: Added by P.L. 18-44:46 (11/14/86).

2016 NOTE: Subitem designations were altered in subsection (a)(2) to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 11403. Where Defendant is Out of Guam.

If, when the cause of action accrues against the person, he is out of Guam, the action may be commenced, within the term herein limited, after his return to Guam and if, after the cause of action accrues, he departs from Guam, the time of his absence is not a part of the time limited for the commencement of the action.

SOURCE: CCP § 351.

§ 11404. Exception for Persons Under Disabilities.

If a person entitled to bring an action, mentioned in Article 3 of this Chapter, be, at the time the cause of action accrued, either:

(a) A minor; or

(b) Insane; or

(c) A married woman, and her husband be a necessary party with her in commencing such action; the time of such disability is not a part of the time limited for the commencement of the action.

SOURCE: CCP § 352, amended by P.L. 13-187:27.

2016 NOTE: Subsection designations were altered to adhere to the Compiler's codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 11405. Death Before Expiration of Limitation.

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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 representative, after the expiration of that time, and within six (6) months from his death. If a person against whom an action may be brought dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced against his representatives, after the expiration of that time, and within one (1) year after the issuing of letters testamentary or of administration, or an action against the estate provided for by 15 GCA 2523 may be commenced within one (1) year after the expiration of the time otherwise limited for the commencement thereof.

SOURCE: CCP § 353.

COMMENT: The editor to the 1970 Guam Codes refers, as a note to this section, to FRCP Rule 25 as requiring that substitution of parties must be within ninety (90) days of suggestion of death on the record. However, it seems to the Compiler that this Section and Rule 25 are not related. This Section permits the bringing of action after the death of one who would have been the party. Rule 25 requires substitution of parties in actions that have already begun before the relevant death.

§ 11406. Disability During War; Effect on Limitation Period.

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 part of the period limited for the commencement of the action.

SOURCE: CCP § 354.

§ 11407. Provision Where Judgment has been Reversed.

If an action is commenced within the time prescribed therefor, and judgment therein for the plaintiff be reversed on appeal, the plaintiff, or, if he dies and the cause of action survives, his representatives, may commence a new action within one (1) year after the reversal.

SOURCE: CCP § 355.

§ 11408. Provision Where Action is Stayed by Injunction.

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.

SOURCE: CCP § 356.

§ 11409. Disability Existing When Action Accrues.

No person can avail himself of a disability unless it existed when his right of action accrued.

SOURCE: CCP § 357.

§ 11410. When Two or More Disabilities Exist.

When two or more disabilities coexist at the time the right of action accrues, the limitation does not attach until they are removed.

SOURCE: CCP § 358.

§ 11411. Limitations Against Directors or Stockholders.

This Chapter does not affect actions against directors or stockholders of a corporation to recover a penalty or forfeiture imposed, or to enforce a liability created by law; but such actions must be brought within three (3) years after the discovery, by the aggrieved party, of the facts upon which the penalty or forfeiture attached, or the liability, was created.

SOURCE: CCP § 359.

§ 11412. Acknowledgment or New Promise.

No acknowledgment or promise is sufficient evidence of a new or continuing contract, by which to take the case out of the operation of this Chapter, unless the same is contained in some writing, signed by the party to be charged thereby.

SOURCE: CCP § 360.

§ 11413. Effect of Limitation Laws of Other States or Countries.

When a cause of action has arisen in any state, or in a foreign country, and by the laws thereof an action thereon cannot there be maintained against a person by reason of the lapse of time, an action thereon shall not be maintained against him in Guam, except in favor of one who has been a citizen of Guam, and who has held the cause of action from the time it accrued.

SOURCE: CCP § 361.

§ 11414. Existing Causes of Action Not Affected.

This Chapter does not extend to actions already commenced nor to cases where the time prescribed in any existing statute for acquiring a right or barring a remedy has fully run, but the laws now in force are applicable to

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such actions and cases, and are repealed subject to the provisions of this Section.

SOURCE: CCP § 362.

§ 11415. Action Defined.

The word *action* as used in this Chapter is to be construed, whenever it is necessary so to do, as including a special proceeding of a civil nature.

SOURCE: CCP § 363.

§ 11416. Exception. Where a Party is Evading Service of Process.

If after the time a cause of action accrues against a parent for recovery of amounts which the parent is obligated to pay to the government of Guam as a result of public assistance having been granted due to the separation or desertion of the parent from a child or children, that parent is evading service of process, the time that parent evades service of process is not part of the time limited for the commencement of the action.

SOURCE: Added by P.L. 24-116:9.
