

West's Wisconsin Statutes Annotated

Limitation of Actions (Ch. 893)

Chapter 893. Limitations of Commencement of Actions and Proceedings; Procedure for Claims Against Governmental Units (Refs & Annos)

Subchapter III. Actions Concerning Real or Personal Property (Refs & Annos)

W.S.A. 893.33

### 893.33. Action concerning real estate

Effective: March 13, 2022

[Currentness](#)

(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, that 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 statement of the claims made, a description of the real estate affected and of the instrument or transaction or event on which the claim or defense is founded, and, if the claim or defense is founded on a recorded instrument, the date the instrument was recorded, the document number of the instrument, and, if the instrument is assigned a volume and page number, the volume and page where the instrument is recorded. 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 that 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.

(4r) This section applies to liens of the department of health services on real property under [ss. 46.27 \(7g\)](#), [49.496](#), [49.682](#), and [49.849](#).

(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, death and income or franchise 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, a public service corporation as defined in s. 201.01, an electric cooperative organized and operating on a nonprofit basis under ch. 185, a natural gas company, as defined in 15 USC 717a(6), or any trustee or receiver of a railroad corporation, a public service corporation, an electric cooperative, or a natural gas company, or to claims or actions founded upon mortgages or trust deeds executed by that cooperative, corporation, company, or trustees or receivers of that cooperative, corporation, or company. This section also does not apply to real estate or an 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.

(6m) This section does not apply to an interest in any of the following:

(a) A conservation easement under s. 700.40.

(b) An easement set forth in a recorded instrument that allows a person to travel across another's land to reach a location or for another specified purpose if any of the following applies:

1. The instrument is recorded on or after January 1, 1960.

2. An instrument is recorded before January 1, 1960, and a notice, the instrument, or an instrument expressly referring to the easement is recorded on or after January 1, 1960, and before the property is sold or transferred.

3. The instrument or instruments expressly referring to the easement were recorded before January 1, 1960, and it is apparent from or can be proved from physical evidence of its use at such time when a person acquired the real estate subject to the easement.

(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 July 1, 1980, an action shall be commenced within the period prescribed by [s. 893.15, 1977 stats.](#), or 40 years after July 1, 1980, 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 July 1, 1980. If a cause of action is subject to sub. (8) the recording of an instrument or notice as provided by this section after July 1, 1980 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).

#### Credits

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#### Editors' Notes

##### JUDICIAL COUNCIL COMMITTEE'S NOTE--1979 [DELETED IN PART]

This section is based primarily on previous 893.15. That section, an interesting combination of limitations statute and a marketable title statute, was of significant help to real estate titles since enactment in 1941. The beneficial effects were strengthened and expanded by enactment of [s. 706.09](#) in 1967. This draft preserves the useful essence of previous [s. 893.15](#), while updating some language. Changes which affect substance are:

(1) The 60-year provision relating to easements and covenants is reduced to 40 years.

(2) New subsections (8) and (9) are transitional provisions applying to limitation periods already running the period specified in previous [s. 893.15](#), or the period in this statute, whichever is shorter.

(5) This draft makes explicit that only those who purchase for valuable consideration after the period of limitation has run or their successors may avail themselves of the benefits of this statute. There is no requirement that the purchaser be without notice, which is to be contrasted with [s. 706.09 of the statutes](#) where periods far shorter than 30 years are specified in many subsections.

#### Notes of Decisions (83)

W. S. A. 893.33, WI ST 893.33

Current through 2023 Act 140, except Acts 119-121, 126-128, 130-131, 135-138, published March 22, 2024.