

March 18, 1938

Mr. R. L. Scudder  
Principal Elementary Schools  
Chandler Public Schools  
Chandler, Arizona

## LAW LIBRARY ARIZONA ATTORNEY GENERAL

Dear Sir:

In answer to your recent inquiry in regard to the provisions of the Arizona statute as to limitations of actions, we herewith set forth the provisions of the statute limiting the time in which actions for debt must be filed.

Section 2060, Revised Code of Arizona 1928.

"There shall be commenced and prosecuted within three years after the cause of action shall have accrued, and not afterward, the following actions: 1. Debt where the indebtedness is not evidenced by a contract in writing; 2. upon stated or open accounts other than such mutual and current accounts as concern the trade of merchandise between merchant and merchant, their factors or agents; provided, that no item of any stated or open account shall be barred under the provisions hereof, so long as any item thereof shall have been incurred within three years immediately prior to the commencement of any action thereon; 3. for relief on the ground of fraud or mistake, which cause of action shall not be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake."

Section 2061, Revised Code of Arizona 1928.

"There shall be commenced and prosecuted within four years after the cause of action shall have accrued, and not afterward, the following actions: 1. For the penalty or for damages on the penal clause of a bond to convey real property; 2. by one partner against his co-partner for a settlement of the partnership account, or upon mutual and current accounts concerning the trade of merchandise between merchant and merchant, their factors or agents, and the cause of action shall be considered as having accrued on a cessation of the dealings in which they were interested together; 3. upon a judgment or decree of any court rendered without this state, or upon an instrument in writing executed without this state."

Section 2062, Revised Code of Arizona 1928.

"Actions for debt where the indebtedness is evidenced by or founded upon a contract in writing, executed within this state, shall be commenced and prosecuted within six years after the cause of action has accrued and not afterward. Actions on the bond of an executor, administrator or guardian, shall be commenced and prosecuted within four years next after the death, resignation, removal or discharge of such executor, administrator or guardian, and not afterward. Actions for the specific performance of a contract for the conveyance of real property shall be commenced within four years next after the cause of action shall have accrued, and not afterward. Actions of forcible entry or forcible detainer shall be commenced and prosecuted within two years from the commencement of the forcible entry or detainer and not afterward. Actions upon a judgment or decree rendered in another state or in a foreign country, shall be barred, if by the laws of such state or country such action would there be barred, and the judgment or decree be incapable of being otherwise enforced there."

Section 2063, Revised Code of Arizona 1928.

"Actions other than for the recovery of real property, for which no limitation is otherwise prescribed, shall be brought within four years next after the right to bring the same has accrued, and not afterward."

These statutes of limitations above quoted are not self-operative, that is to say, an action can be filed by one who claims indebtedness, and it then becomes necessary for the defendant to plead the statute. However, if a person entitled to bring an action, but at the time the cause of action accrues is either under the age of twenty-one years or of unsound mind or imprisoned, the time of such disability shall not be deemed a portion of the time limited for the commencement of the action, and such person shall have the time after the removal of his disability that is allowed to others.

Hoping that the above information answers your inquiry, we are

Very truly yours,

JOE CONWAY  
Attorney General

CHARLES BERNSTEIN  
Assistant Attorney General