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CODE OF CIVIL PROCEDURE SECTION 335-349.4

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

335.1. Within two years: An action for assault, battery, or injury to, or for the death of, an individual caused by the wrongful act or neglect of another.

336. Within five years:

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

(b) An action for violation of a restriction, as defined in Section 784 of the Civil Code. The period prescribed in this subdivision runs from the time the person seeking to enforce the restriction discovered or, through the exercise of reasonable diligence, should have discovered the violation. A failure to commence an action for violation of a restriction within the period prescribed in this subdivision does not waive the right to commence an action for any other violation of the restriction and does not, in itself, create an implication that the restriction is abandoned, obsolete, or otherwise unenforceable. This subdivision shall not bar commencement of an action for violation of a restriction before January 1, 2001, and until January 1, 2001, any other applicable statutory or common law limitation shall continue to apply to that action.

336a. Within six years. 1. An action upon any bonds, notes or debentures issued by any corporation or pursuant to permit of the Commissioner of Corporations, or upon any coupons issued with such bonds, notes or debentures, if such bonds, notes or debentures shall have been issued to or held by the public.

2. An action upon any mortgage, trust deed or other agreement pursuant to which such bonds, notes or debentures were issued. Nothing in this section shall apply to bonds or other evidences of indebtedness of a public district or corporation.

337. Within four years: 1. An action upon any contract, obligation or liability founded upon an instrument in writing, except as provided in Section 336a of this code; provided, that the time within which any action for a money judgment for the balance due upon an obligation for the payment of which a deed of trust or mortgage with power of sale upon real property or any interest therein was given as security, following the exercise of the power of sale in such deed of trust or mortgage, may be brought shall not extend beyond three months after the time of sale under such deed of trust or mortgage.

2. An action to recover (1) upon a book account whether consisting of one 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, the items of which are in writing; provided, however, that where an account stated is based upon an account of one item, the time shall begin to run from the date of said item, and where an

account stated is based upon an account of more than one item, the time shall begin to run from the date of the last item.

3. An action based upon the rescission of a contract in writing. The time begins to run from the date upon which the facts that entitle the aggrieved party to rescind occurred. Where the ground for rescission is fraud or mistake, the time does not begin to run until the discovery by the aggrieved party of the facts constituting the fraud or mistake. Where the ground for rescission is misrepresentation under Section 359 of the Insurance Code, the time does not begin to run until the representation becomes false.

337a. The term "book account" means a detailed statement which constitutes the principal record of one or more transactions between a debtor and a creditor arising out of a contract or some fiduciary relation, and shows the debits and credits in connection therewith, and against whom and in favor of whom entries are made, is entered in the regular course of business as conducted by such 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 backing but detachable therefrom, or (3) on a card or cards of a permanent character, or is kept in any other reasonably permanent form and manner.

337.1. (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 four years after the substantial completion of such improvement for any of the following:

(1) Any patent deficiency in the design, specifications, surveying, 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.

(b) If, by reason of such patent deficiency, an injury to property or the person or an injury causing wrongful death occurs during the fourth year after such substantial completion, an action in tort to recover damages for such an injury or wrongful death may be brought within one 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 five years after the substantial completion of construction of such improvement.

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

(d) The limitation prescribed by this section shall not be asserted by way of defense by any person in actual possession or the 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.

(e) As used in this section, "patent deficiency" means a deficiency which is apparent by reasonable inspection.

(f) Subdivisions (a) and (b) shall not apply to any owner-occupied

single-unit residence.

337.15. (a) No action may be brought to recover damages from any person, or the surety of a person, who develops real property or performs or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or construction of an improvement to real property more than 10 years after the substantial completion of the development or improvement for any of the following:

(1) Any latent deficiency in the design, specification, surveying, 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 latent 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 that person's performance or furnishing of services or materials referred to in this section, except that a cross-complaint for indemnity may be filed pursuant to subdivision (b) of Section 428.10 in an action which has been brought within the time period set forth in subdivision (a) of this section.

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

(e) The limitation prescribed by this section shall not be asserted by way of defense by any person in actual possession or the control, as owner, tenant or otherwise, of such an improvement, at the time any deficiency in the 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.

(g) The 10-year period specified in subdivision (a) shall commence upon substantial completion of the improvement, but not later than the date of one of the following, whichever first occurs:

(1) The date of final inspection by the applicable public agency.

(2) The date of recordation of a valid notice of completion.

(3) The date of use or occupation of the improvement.

(4) One year after termination or cessation of work on the improvement.

The date of substantial completion shall relate specifically to the performance or furnishing design, specifications, surveying, planning, supervision, testing, observation of construction or construction services by each profession or trade rendering services to the improvement.

337.2. Where a lease of real property is in writing, no action shall be brought under Section 1951.2 of the Civil Code more than four years after the breach of the lease and abandonment of the property, or more than four years after the termination of the right of the lessee to possession of the property, whichever is the earlier time.

337.5. Within 10 years:

1. An action upon any bonds or coupons issued by the State of

California.

2. An action upon any general obligation bonds or coupons, not secured in whole or in part by a lien on real property, issued by any county, city and county, municipal corporation, district (including school districts), or other political subdivision of the State of California.

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

337.6. Notwithstanding the provisions of Section 337.5 of this code actions may be brought on bonds or coupons as set forth in subsection 2 of said section, against which the statute of limitations ran on or after August 27, 1937; provided, such actions are brought on or before June 30, 1959. Upon presentation for payment they shall be registered and payment shall not be made thereon until the next fiscal year following presentation unless available funds are sufficient to first pay obligations which are due or will become due from the same fund during the fiscal year of presentation and during the next succeeding six months. Interest shall not be paid on bonds or coupons registered for the purpose of this section.

338. Within three years:

(a) An action upon a liability created by statute, 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. The cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any article of historical, interpretive, scientific, or artistic significance is not deemed to have accrued until the discovery of the whereabouts of the article by the aggrieved party, his or her agent, or the law enforcement agency that originally investigated the theft.

(d) An action for relief on the ground of fraud or mistake. The cause of action in that case is not 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 deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

(f) (1) An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action.

(2) Notwithstanding paragraph (1), an action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later.

(3) Notwithstanding paragraph (1), an action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

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

(h) An action commenced under Section 17536 of the Business and

Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing the action.

(i) An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Water Resources Control Board or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

(k) An action commenced under Division 26 (commencing with Section 39000) of the Health and Safety Code. These causes of action shall not be deemed to have accrued until the discovery by the State Air Resources Board or by a district, as defined in Section 39025 of the Health and Safety Code, of the facts constituting grounds for commencing the action under its jurisdiction.

(l) An action commenced under Section 1603.1, 1615, or 5650.1 of the Fish and Game Code. These causes of action shall not be deemed to have accrued until discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

(m) An action challenging the validity of the levy upon a parcel of a special tax levied by a local agency on a per parcel basis.

(n) An action commencing under Section 51.7 of the Civil Code.

338.1. An action for civil penalties or punitive damages authorized under Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code shall be commenced within five years after the discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

339. Within two years: 1. An action upon a contract, obligation or liability not founded upon an instrument of writing, except as provided in Section 2725 of the Commercial Code or subdivision 2 of Section 337 of this code; 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 discovery of the loss or damage suffered by the aggrieved party thereunder.

2. An action against a sheriff or coroner upon a liability incurred by the doing of an act in an official capacity and in virtue of office, or by the omission of an official duty including the nonpayment of money collected in the enforcement of a judgment.

3. An action based upon the rescission of a contract not in writing. The time begins to run from the date upon which the facts that entitle the aggrieved party to rescind occurred. Where the ground for rescission is fraud or mistake, the time does not begin to run until the discovery by the aggrieved party of the facts constituting the fraud or mistake.

339.5. Where a lease of real property is not in writing, no action shall be brought under Section 1951.2 of the Civil Code more than two years after the breach of the lease and abandonment of the property, or more than two years after the termination of the right of the lessee to possession of the property, whichever is the earlier time.

340. Within one year:

(a) An action upon a statute for a penalty or forfeiture, if the action is given to an individual, or to an individual and the state, except if the statute imposing it prescribes a different limitation.

(b) An action upon a statute for a forfeiture or penalty to the people of this state.

(c) An action for libel, slander, false imprisonment, seduction of a person below the age of legal consent, 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, or against any person who boards or feeds an animal or fowl or who engages in the practice of veterinary medicine as defined in Section 4826 of the Business and Professions Code, for that person's neglect resulting in injury or death to an animal or fowl in the course of boarding or feeding the animal or fowl or in the course of the practice of veterinary medicine on that animal or fowl.

(d) An action against an officer to recover damages for the seizure of any property for a statutory forfeiture to the state, or for the detention of, or injury to property so seized, or for damages done to any person in making that seizure.

(e) An action by a good faith improver for relief under Chapter 10 (commencing with Section 871.1) of Title 10 of Part 2. The time begins to run from the date upon which the good faith improver discovers that the good faith improver is not the owner of the land upon which the improvements have been made.

340.1. (a) In an action for recovery of damages suffered as a result of childhood sexual abuse, the time for commencement of the action shall be within eight years of the date the plaintiff attains the age of majority or within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual abuse, whichever period expires later, for any of the following actions:

(1) An action against any person for committing an act of childhood sexual abuse.

(2) An action for liability against any person or entity who owed a duty of care to the plaintiff, where a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual abuse which resulted in the injury to the plaintiff.

(3) An action for liability against any person or entity where an intentional act by that person or entity was a legal cause of the childhood sexual abuse which resulted in the injury to the plaintiff.

(b) (1) No action described in paragraph (2) or (3) of subdivision

(a) may be commenced on or after the plaintiff's 26th birthday.

(2) This subdivision does not apply if the person or entity knew or had reason to know, or was otherwise on notice, of any unlawful sexual conduct by an employee, volunteer, representative, or agent, and failed to take reasonable steps, and to implement reasonable safeguards, to avoid acts of unlawful sexual conduct in the future by that person, including, but not limited to, preventing or avoiding placement of that person in a function or environment in which contact with children is an inherent part of that function or environment. For purposes of this subdivision, providing or requiring counseling is not sufficient, in and of itself, to constitute a reasonable step or reasonable safeguard.

(c) Notwithstanding any other provision of law, any claim for damages described in paragraph (2) or (3) of subdivision (a) that is permitted to be filed pursuant to paragraph (2) of subdivision (b) that would otherwise be barred as of January 1, 2003, solely because the applicable statute of limitations has or had expired, is revived, and, in that case, a cause of action may be commenced within one year of January 1, 2003. Nothing in this subdivision shall be construed to alter the applicable statute of limitations period of an action that is not time barred as of January 1, 2003.

(d) Subdivision (c) does not apply to either of the following:

(1) Any claim that has been litigated to finality on the merits in any court of competent jurisdiction prior to January 1, 2003. Termination of a prior action on the basis of the statute of limitations does not constitute a claim that has been litigated to finality on the merits.

(2) Any written, compromised settlement agreement which has been entered into between a plaintiff and a defendant where the plaintiff was represented by an attorney who was admitted to practice law in this state at the time of the settlement, and the plaintiff signed the agreement.

(e) "Childhood sexual abuse" as used in this section includes any act committed against the plaintiff that occurred when the plaintiff was under the age of 18 years and that would have been proscribed by Section 266j of the Penal Code; Section 285 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 286 of the Penal Code; subdivision (a) or (b) of Section 288 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 288a of the Penal Code; subdivision (h), (i), or (j) of Section 289 of the Penal Code; Section 647.6 of the Penal Code; or any prior laws of this state of similar effect at the time the act was committed. Nothing in this subdivision limits the availability of causes of action permitted under subdivision (a), including causes of action against persons or entities other than the alleged perpetrator of the abuse.

(f) Nothing in this section shall be construed to alter the otherwise applicable burden of proof, as defined in Section 115 of the Evidence Code, that a plaintiff has in a civil action subject to this section.

(g) Every plaintiff 26 years of age or older at the time the action is filed shall file certificates of merit as specified in subdivision (h).

(h) Certificates of merit shall be executed by the attorney for the plaintiff and by a licensed mental health practitioner selected by the plaintiff declaring, respectively, as follows, setting forth the facts which support the declaration:

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one mental health practitioner who is licensed to practice and practices in this state and who the attorney reasonably believes is knowledgeable of the relevant facts

and issues involved in the particular action, and that the attorney has concluded on the basis of that review and consultation that there is reasonable and meritorious cause for the filing of the action. The person consulted may not be a party to the litigation.

(2) That the mental health practitioner consulted is licensed to practice and practices in this state and is not a party to the action, that the practitioner is not treating and has not treated the plaintiff, and that the practitioner has interviewed the plaintiff and is knowledgeable of the relevant facts and issues involved in the particular action, and has concluded, on the basis of his or her knowledge of the facts and issues, that in his or her professional opinion there is a reasonable basis to believe that the plaintiff had been subject to childhood sexual abuse.

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificates required by paragraphs (1) and (2) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificates required by paragraphs (1) and (2) shall be filed within 60 days after filing the complaint.

(i) Where certificates are required pursuant to subdivision (g), the attorney for the plaintiff shall execute a separate certificate of merit for each defendant named in the complaint.

(j) In any action subject to subdivision (g), no defendant may be served, and the duty to serve a defendant with process does not attach, until the court has reviewed the certificates of merit filed pursuant to subdivision (h) with respect to that defendant, and has found, in camera, based solely on those certificates of merit, that there is reasonable and meritorious cause for the filing of the action against that defendant. At that time, the duty to serve that defendant with process shall attach.

(k) A violation of this section may constitute unprofessional conduct and may be the grounds for discipline against the attorney.

(l) The failure to file certificates in accordance with this section shall be grounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.

(m) In any action subject to subdivision (g), no defendant may be named except by "Doe" designation in any pleadings or papers filed in the action until there has been a showing of corroborative fact as to the charging allegations against that defendant.

(n) At any time after the action is filed, the plaintiff may apply to the court for permission to amend the complaint to substitute the name of the defendant or defendants for the fictitious designation, as follows:

(1) The application shall be accompanied by a certificate of corroborative fact executed by the attorney for the plaintiff. The certificate shall declare that the attorney has discovered one or more facts corroborative of one or more of the charging allegations against a defendant or defendants, and shall set forth in clear and concise terms the nature and substance of the corroborative fact. If the corroborative fact is evidenced by the statement of a witness or the contents of a document, the certificate shall declare that the attorney has personal knowledge of the statement of the witness or of the contents of the document, and the identity and location of the witness or document shall be included in the certificate. For purposes of this section, a fact is corroborative of an allegation if it confirms or supports the allegation. The opinion of any mental health practitioner concerning the plaintiff shall not constitute a corroborative fact for purposes of this section.

(2) Where the application to name a defendant is made prior to that defendant's appearance in the action, neither the application

nor the certificate of corroborative fact by the attorney shall be served on the defendant or defendants, nor on any other party or their counsel of record.

(3) Where the application to name a defendant is made after that defendant's appearance in the action, the application shall be served on all parties and proof of service provided to the court, but the certificate of corroborative fact by the attorney shall not be served on any party or their counsel of record.

(o) The court shall review the application and the certificate of corroborative fact in camera and, based solely on the certificate and any reasonable inferences to be drawn from the certificate, shall, if one or more facts corroborative of one or more of the charging allegations against a defendant has been shown, order that the complaint may be amended to substitute the name of the defendant or defendants.

(p) The court shall keep under seal and confidential from the public and all parties to the litigation, other than the plaintiff, any and all certificates of corroborative fact filed pursuant to subdivision (n).

(q) Upon the favorable conclusion of the litigation with respect to any defendant for whom a certificate of merit was filed or for whom a certificate of merit should have been filed pursuant to this section, the court may, upon the motion of a party or upon the court's own motion, verify compliance with this section by requiring the attorney for the plaintiff who was required by subdivision (h) to execute the certificate to reveal the name, address, and telephone number of the person or persons consulted with pursuant to subdivision (h) that were relied upon by the attorney in preparation of the certificate of merit. The name, address, and telephone number shall be disclosed to the trial judge in camera and in the absence of the moving party. If the court finds there has been a failure to comply with this section, the court may order a party, a party's attorney, or both, to pay any reasonable expenses, including attorney's fees, incurred by the defendant for whom a certificate of merit should have been filed.

(r) The amendments to this section enacted at the 1990 portion of the 1989-90 Regular Session shall apply to any action commenced on or after January 1, 1991, including any action otherwise barred by the period of limitations in effect prior to January 1, 1991, thereby reviving those causes of action which had lapsed or technically expired under the law existing prior to January 1, 1991.

(s) The Legislature declares that it is the intent of the Legislature, in enacting the amendments to this section enacted at the 1994 portion of the 1993-94 Regular Session, that the express language of revival added to this section by those amendments shall apply to any action commenced on or after January 1, 1991.

(t) Nothing in the amendments to this section enacted at the 1998 portion of the 1997-98 Regular Session is intended to create a new theory of liability.

(u) The amendments to subdivision (a) of this section, enacted at the 1998 portion of the 1997-98 Regular Session, shall apply to any action commenced on or after January 1, 1999, and to any action filed prior to January 1, 1999, and still pending on that date, including any action or causes of action which would have been barred by the laws in effect prior to January 1, 1999. Nothing in this subdivision is intended to revive actions or causes of action as to which there has been a final adjudication prior to January 1, 1999.

340.15. (a) In any civil action for recovery of damages suffered as

a result of domestic violence, the time for commencement of the action shall be the later of the following:

(1) Within three years from the date of the last act of domestic violence by the defendant against the plaintiff.

(2) Within three years from the date the plaintiff discovers or reasonably should have discovered that an injury or illness resulted from an act of domestic violence by the defendant against the plaintiff.

(b) As used in this section, "domestic violence" has the same meaning as defined in Section 6211 of the Family Code.

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

(1) Within one year after the date the plaintiff first suffered disability.

(2) Within one year after the date the plaintiff either knew, or through the exercise of reasonable diligence should have known, that such disability was caused or contributed to by such exposure.

(b) "Disability" as used in subdivision (a) means the loss of time from work as a result of such exposure 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 one year from the date of the death of the plaintiff's decedent.

(2) Within one year 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.

340.3. (a) Unless a longer period is prescribed for a specific action, in any action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted, the time for commencement of the action shall be within one year after judgment is pronounced.

(b) (1) Notwithstanding subdivision (a), an action for damages against a defendant based upon the defendant's commission of a felony offense for which the defendant has been convicted may be commenced within 10 years of the date on which the defendant is discharged from parole if the conviction was for any offense specified in paragraph (1), except voluntary manslaughter, (2), (3), (4), (5), (6), (7), (9), (16), (17), (20), (22), (25), (34), or (35) of subdivision (c) of Section 1192.7 of the Penal Code.

(2) No civil action may be commenced pursuant to paragraph (1) if any of the following applies:

(A) The defendant has received either a certificate of rehabilitation as provided in Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or a pardon as provided in Chapter 1 (commencing with Section 4800) or Chapter 3 (commencing with Section 4850) of Title 6 of Part 3 of the Penal Code.

(B) Following a conviction for murder or attempted murder, the defendant has been paroled based in whole or in part upon evidence presented to the Board of Prison Terms that the defendant committed the crime because he or she was the victim of intimate partner battering.

(C) The defendant was convicted of murder or attempted murder in the second degree in a trial at which substantial evidence was presented that the person committed the crime because he or she was a victim of intimate partner battering.

(c) If the sentence or judgment is stayed, the time for the commencement of the action shall be tolled until the stay is lifted. For purposes of this section, a judgment is not stayed if the judgment is appealed or the defendant is placed on probation.

(d) (1) Subdivision (b) shall apply to any action commenced before, on, or after the effective date of this section, including any action otherwise barred by a limitation of time in effect prior to the effective date of this section, thereby reviving those causes of action that had lapsed or expired under the law in effect prior to the effective date of this section.

(2) Paragraph (1) does not apply to either of the following:

(A) Any claim that has been litigated to finality on the merits in any court of competent jurisdiction prior to January 1, 2003. For purposes of this section, termination of a prior action on the basis of the statute of limitations does not constitute a claim that has been litigated to finality on the merits.

(B) Any written, compromised settlement agreement that has been entered into between a plaintiff and a defendant if the plaintiff was represented by an attorney who was admitted to practice law in this state at the time of the settlement, and the plaintiff signed the agreement.

(e) Any restitution paid by the defendant to the victim shall be credited against any judgment, award, or settlement obtained pursuant to this section. Any judgment, award, or settlement obtained pursuant to an action under this section shall be subject to the provisions of Section 13966.01 of the Government Code.

340.35. (a) This section shall apply if both of the following conditions are met:

(1) A complaint, information, or indictment was filed in a criminal case initiated pursuant to subdivision (f), (g), or (h) of Section 803 of the Penal Code.

(2) The case was dismissed or overturned pursuant to the United States Supreme Court's decision in *Stogner v. California* (2003) 156 L.Ed.2d 544.

(b) Unless a longer period is prescribed for a specific action, any action for damages against an individual for committing an act of childhood sexual abuse shall be commenced before January 1, 2006.

(c) This section shall apply to any action commenced before, on, or after the effective date of this section, including any action otherwise barred by a limitation of time in effect prior to the effective date of this section, thereby reviving those causes of action that had lapsed or expired under the law in effect prior to the effective date of this section.

(d) This section shall not apply to any of the following:

(1) Any claim against a person or entity other than the individual against whom a complaint, information, or indictment was filed as described in paragraph (1) of subdivision (a).

(2) Any claim that has been litigated to finality on the merits in any court of competent jurisdiction prior to the effective date of this section. For purposes of this section, termination of a prior action on the basis of the statute of limitations does not constitute a claim that has been "litigated to finality on the merits."

(3) Any written, compromised settlement agreement that has been entered into between a plaintiff and a defendant, if the plaintiff

was represented by an attorney who was admitted to practice law in this state at the time of the settlement, and the plaintiff signed the agreement.

(e) Any restitution paid by the defendant to the victim shall be credited against any judgment, award, or settlement obtained pursuant to this section. Any judgment, award, or settlement obtained pursuant to an action under this section shall be subject to Section 13966.01 of the Government Code.

340.4. An action by or on behalf of a minor for personal injuries sustained before or in the course of his or her birth must be commenced within six years after the date of birth, and the time the minor is under any disability mentioned in Section 352 shall not be excluded in computing the time limited for the commencement of the action.

340.5. In an action for injury or death against a health care provider based upon such person's alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of legal action exceed three years unless tolled for any of the following: (1) upon proof of fraud, (2) intentional concealment, or (3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person. Actions by a minor shall be commenced within three years from the date of the alleged wrongful act except that actions by a minor under the full age of six years shall be commenced within three years or prior to his eighth birthday whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which parent or guardian and defendant's insurer or health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor for professional negligence.

For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

340.6. (a) An action against an attorney for a wrongful act or omission, other than for actual fraud, arising in the performance of professional services shall be commenced within one year after the

plaintiff discovers, or through the use of reasonable diligence should have discovered, the facts constituting the wrongful act or omission, or four years from the date of the wrongful act or omission, whichever occurs first. In no event shall the time for commencement of legal action exceed four years except that the period shall be tolled during the time that any of the following exist:

(1) The plaintiff has not sustained actual injury;

(2) The attorney continues to represent the plaintiff regarding the specific subject matter in which the alleged wrongful act or omission occurred;

(3) The attorney willfully conceals the facts constituting the wrongful act or omission when such facts are known to the attorney, except that this subdivision shall toll only the four-year limitation; and

(4) The plaintiff is under a legal or physical disability which restricts the plaintiff's ability to commence legal action.

(b) In an action based upon an instrument in writing, the effective date of which depends upon some act or event of the future, the period of limitations provided for by this section shall commence to run upon the occurrence of such act or event.

340.7. (a) Notwithstanding Section 335.1, a civil action brought by, or on behalf of, a Dalkon Shield victim against the Dalkon Shield Claimants' Trust, shall be brought in accordance with the procedures established by A.H. Robins Company, Inc. Plan of Reorganization, and shall be brought within 15 years of the date on which the victim's injury occurred, except that the statute shall be tolled from August 21, 1985, the date on which the A.H. Robins Company filed for Chapter 11 Reorganization in Richmond, Virginia.

(b) This section applies regardless of when the action or claim shall have accrued or been filed and regardless of whether it might have lapsed or otherwise be barred by time under California law. However, this section shall only apply to victims who, prior to January 1, 1990, filed a civil action, a timely claim, or a claim that is declared to be timely under the sixth Amended and Restated Disclosure Statement filed pursuant to Section 1125 of the Federal Bankruptcy Code in re: A.H. Robins Company, Inc., dated March 28, 1988, U.S. Bankruptcy Court, Eastern District of Virginia (case number 85-01307-R).

340.8. (a) In any civil action for injury or illness based upon exposure to a hazardous material or toxic substance, the time for commencement of the action shall be no later than either two years from the date of injury, or two years after the plaintiff becomes aware of, or reasonably should have become aware of, (1) an injury, (2) the physical cause of the injury, and (3) sufficient facts to put a reasonable person on inquiry notice that the injury was caused or contributed to by the wrongful act of another, whichever occurs later.

(b) In an action for the wrongful death of any plaintiff's decedent, based upon exposure to a hazardous material or toxic substance, the time for commencement of an action shall be no later than either (1) two years from the date of the death of the plaintiff's decedent, or (2) two years from the first date on which the plaintiff is aware of, or reasonably should have become aware of, the physical cause of the death and sufficient facts to put a reasonable person on inquiry notice that the death was caused or contributed to

by the wrongful act of another, whichever occurs later.

(c) For purposes of this section:

(1) A "civil action for injury or illness based upon exposure to a hazardous material or toxic substance" does not include an action subject to Section 340.2 or 340.5.

(2) Media reports regarding the hazardous material or toxic substance contamination do not, in and of themselves, constitute sufficient facts to put a reasonable person on inquiry notice that the injury or death was caused or contributed to by the wrongful act of another.

(d) Nothing in this section shall be construed to limit, abrogate, or change the law in effect on the effective date of this section with respect to actions not based upon exposure to a hazardous material or toxic substance.

340.9. (a) Notwithstanding any other provision of law or contract, any insurance claim for damages arising out of the Northridge earthquake of 1994 which is barred as of the effective date of this section solely because the applicable statute of limitations has or had expired is hereby revived and a cause of action thereon may be commenced provided that the action is commenced within one year of the effective date of this section. This subdivision shall only apply to cases in which an insured contacted an insurer or an insurer's representative prior to January 1, 2000, regarding potential Northridge earthquake damage.

(b) Any action pursuant to this section commenced prior to, or within one year from, the effective date of this section shall not be barred based upon this limitations period.

(c) Nothing in this section shall be construed to alter the applicable limitations period of an action that is not time barred as of the effective date of this section.

(d) This section shall not apply to either of the following:

(1) Any claim that has been litigated to finality in any court of competent jurisdiction prior to the effective date of this section.

(2) Any written compromised settlement agreement which has been made between an insurer and its insured where the insured was represented by counsel admitted to the practice of law in California at the time of the settlement, and who signed the agreement.

340.10. (a) For purposes of this section, "terrorist victim" means any individual who died or was injured as a consequence of the terrorist-related aircraft crashes of September 11, 2001, including persons who were present at the World Trade Center in New York City, New York, the Pentagon in Arlington, Virginia, or at the site of the crash at Shanksville, Pennsylvania, or in the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, including members of the flight crew and passengers on American Airlines Flight 11, American Airlines Flight 77, United Airlines Flight 175, and United Airlines Flight 93, and who suffered physical harm or death as a result of any of the crashes, as defined in Section 40101 of Title 49 of the United States Code and the related, applicable regulations, other than an individual identified by the Attorney General of the United States as a participant or conspirator in the terrorist-related aircraft crashes, or a representative or heir of such an individual.

(b) The statute of limitations for injury or death set forth in

Section 335.1 shall apply to any action brought for injury to, or for the death of, any terrorist victim described in subdivision (a) and caused by the wrongful act or neglect of another, regardless of whether that action lapsed or was otherwise barred by time under California law predating the passage of this section and Section 335.1.

341. Within six months:

An action against an officer, or officer de facto:

1. To recover any goods, wares, merchandise, or other property, seized by any 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.

2. To recover stock sold for a delinquent assessment, as provided in section three hundred forty-seven of the Civil Code.

3. 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.

341.5. Notwithstanding any other provision of law, any action or proceeding in which a county, city, city and county, school district, special district, or any other local agency is a plaintiff or petitioner, that is brought against the State of California challenging the constitutionality of any statute relating to state funding for counties, cities, cities and counties, school districts, special districts, or other local agencies, shall be commenced within 90 days of the effective date of the statute at issue in the action.

For purposes of this section, "State of California" means the State of California itself, or any of its agencies, departments, commissions, boards, or public officials.

341a. All civil actions for the recovery or conversion of personal property, wearing apparel, trunks, valises or baggage alleged to have been left at a hotel, hospital, rest home, sanitarium, boarding house, lodging house, furnished apartment house, or furnished bungalow court, shall be begun within 90 days from and after the date of the departure of the owner of said personal property, wearing apparel, trunks, valises or baggage from said hotel, hospital, rest home, sanitarium, boarding house, lodging house, furnished apartment house, or furnished bungalow court.

342. An action against a public entity upon a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code must be commenced within the time provided in Section 945.6 of the Government Code.

343. An action for relief not hereinbefore provided for must be

commenced within four years after the cause of action shall have accrued.

344. 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.

345. The limitations prescribed in this chapter apply to actions brought in the name of the state or county or for the benefit of the state or county, in the same manner as to actions by private parties.

Accounts for the support of patients at state or county hospitals are book accounts as defined in Section 337a, and actions on them may be commenced at any time within four years after the last date of service or the last date of payment.

346. 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 years after breach of some condition of the mortgage.

347. 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 provisions of this Chapter, 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 mortgage 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.

348. 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 or evidenced by a certificate issued by an industrial loan company or credit union there is no limitation.

This section shall not apply to banks, bankers, trust companies, building and loan associations, industrial loan companies, credit unions, and savings and loan societies which have become insolvent and are in process of liquidation and in such cases the statute of limitations shall be 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.

349. Any action to contest an assessment levied by the legislative body of any municipality under the terms of the 'Local Improvement Act of 1901,' must be commenced within thirty days after the entry upon the minutes of such legislative body of the resolution provided for in section eight of said "Local Improvement Act of 1901."

3491/2. The validity of any proceedings for the incorporation of a municipal corporation, the annexation of territory to a municipal corporation, or for the consolidation of municipal corporations, shall not be contested in any action unless such action shall have been brought within three months after the completion of such proceedings, or, in case such proceedings are completed prior to the time that the amendments to this section enacted at the 1957 Regular Session of the Legislature take effect, then within three months after such amendments shall have become effective.

3493/4. Within one hundred eighty days:

(a) An action to enjoin, abate, or for damages on account of, an underground trespass, use or occupancy, by means of a well drilled for oil or gas or both from a surface location on land other than real property in which the aggrieved party has some right, title or interest or in respect to which the aggrieved party has some right, title or interest.

(b) An action for conversion or for the taking or removing of oil, gas or other liquid, or fluids by means of any such well.

When any of said acts is by means of a new well the actual drilling of which is commenced after this section becomes effective, and such act was knowingly committed with actual intent to commit such act, the cause of action in such case shall not be deemed to have accrued until the discovery, by the aggrieved party, of the act or acts complained of; but in all other cases, and as to wells heretofore or hereafter drilled, the cause of action shall be deemed to have accrued ten days after the time when the well which is the subject of the cause of action was first placed on production.

Notwithstanding the continuing character of any such act, there shall be but one cause of action for any such act, and the cause of action shall accrue as aforesaid.

In all cases where oil or gas has been heretofore or is hereafter extracted from any existing or subsequently drilled well in this State, by a person without right but asserting a claim of right in good faith or acting under an honest mistake of law or fact, the measure of damages, if there be any right of recovery under existing law, shall be the value of the oil or gas at the time of extraction, without interest, after deducting all costs of development, operation and production, which costs shall include taxes and interest on all expenditures from the date thereof.

This section shall apply to causes of action existing when this section becomes effective. The time for commencement of existing causes of action which would be barred by this section within the first one hundred eighty days after this section becomes effective, shall be the said first one hundred eighty days.

Whenever the term "oil" is used in this section it shall be taken to include "petroleum," and the term "gas" shall mean natural gas coming from the earth.

The limitations prescribed by this section shall not apply to rights of action or actions to be brought in the name of or for the

benefit of the people of this State, or of any county, city and county, city or other political subdivision of this State.

349.1. The validity of any acts or proceedings taken under color of law for the formation, organization, incorporation, dissolution, consolidation, change of organization or reorganization of, or for any change in the territorial boundaries of, any city, county, city and county, special district, public corporation or other public entity, or improvement district within any of the foregoing, shall not be contested in any action unless such action shall have been brought within six months from the date of completion of said acts or proceedings. Unless an action is commenced within said period all said acts or proceedings shall be held valid and in every respect legal and incontestable.

This section shall not amend or repeal any existing statute prescribing a shorter period of limitation than that specified herein.

349.2. Where any acts or proceedings are taken under color of law by or on behalf of any city, county, city and county, special district, public corporation or other public entity for the authorization, sale or issuance of bonds:

(1) The validity of any such acts or proceedings for the authorization of bonds shall not be contested in any action unless such action shall have been brought within six months from the date of election authorizing said bonds, in cases where said bonds are required by law to be authorized at an election, or within six months from the date of adoption of a resolution or ordinance authorizing such bonds, in cases where bonds are not required by law to be authorized at an election;

(2) The validity of any such acts or proceedings for the sale of bonds (including all acts or proceedings taken prior thereto and providing for the issuance of such bonds) shall not be contested in any action unless such action shall have been brought within six months from the date of sale of said bonds;

(3) The validity of any such acts or proceedings for the issuance and delivery of, or payment for, bonds shall not be contested in any action unless such action shall have been brought within six months from the date of issuance and delivery of, or payment for, said bonds.

Unless an action is commenced within the applicable time hereinabove specified, said acts or proceedings for the authorization, sale or issuance of bonds shall be held valid and in every respect legal and incontestable.

This section shall not amend or repeal any existing statute prescribing a shorter period of limitation than that specified herein.

As used in this section, the term "bonds" means all instruments evidencing indebtedness incurred or to be incurred for any public purpose, all instruments evidencing the borrowing of money in anticipation of taxes, revenues or other income of a public body, all instruments payable from revenues or special funds, and all instruments funding or refunding any thereof or any indebtedness, but shall not include any special assessment bonds, special assessment refunding bonds, or bonds or other instruments issued to represent special assessments which are, directly or indirectly, secured by or payable from specific assessments levied against lands benefited,

including bonds or other instruments issued under or pursuant to any statute, charter or ordinance providing for the improvement of streets, the opening and widening of streets, the provision for off-street parking, or the refunding of any of the same.

349.4. All acts and proceedings heretofore or hereafter taken under color of law for the formation, organization or incorporation of, or for any change in the territorial boundaries of, any city, county, city and county, special district, public corporation or other public entity, or improvement district, annexed area or zone within any of the foregoing, and for the authorization, issuance, sale, or exchange of bonds of the entity or the territory thereof may be confirmed, validated, and declared legally effective in the manner provided in this section.

The legislative body of the entity may instruct its clerk or secretary to mail a notice to all owners of property within the entity, within the improvement district or zone, or within the annexed area, as the case may be, as their names and addresses appear on the last equalized county assessment roll, or as known to the clerk or secretary. Such notice shall include the name of the entity, the date the entity or the zone or improvement district therein was ordered formed or its territory changed by annexation or otherwise, as the case may be, the amount of bonds authorized, if any, and a statement that commencing with the date of mailing of said notice there shall be a 60-calendar-day period during which period any property owner may file an action contesting the validity of the formation of the entity, or of such improvement district or zone, or of such change of boundaries by annexation or otherwise, as the case may be, or the validity of the bond authorization, if any. The clerk or secretary shall make and file with the legislative body of the entity a certificate of mailing of the notices. The legislative body of the entity may order the clerk or secretary to include in such notice such other additional information that it deems pertinent.

If no action is filed during such 60-day period, the formation of the entity or of such improvement district or zone, or the change of boundaries by annexation or otherwise, as the case may be, and the bond authorization, if any, are valid and uncontestable.
