

# PUBLICATION

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## Statutes of Limitation Provide for Extinguishment of Your Rights

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**Almost all legal documents which form the backbone of lending have an applicable state law statute of limitation period after which the holder's or lender's rights under the document expire.**

The best example of this is a promissory note or similar negotiable instrument. The statute of limitation period is established by each individual state. The parties cannot "contract around" the statute of limitation period.

It has been recognized for many, many years that the time period within which a promissory note is enforceable must have a set and determinate period of time once the note matures or there is a payment default. Thus, individual states have different statute of limitation periods within which the holder of the promissory note must act through the institution of litigation, acknowledgment by maker, receipt of payment, or other similar events. If you fail to act within the statute of limitation period, the promissory note and the obligation it represents are extinguished.

Thus, a statute of limitations is a time period (and time is not on your side) within which you have to enforce your rights.

I thought a few quotes would highlight this problem.

*"Yesterday is a cancelled check; tomorrow is a promissory note; today is the only cash you have--so spend it wisely."*

--Kay Lyons

*"Never put off till tomorrow...what you can do the day after tomorrow."*

--Mark Twain

By way of example, the statute of limitation periods for enforcement of promissory notes in the states of Alabama, Arkansas and Florida are as follows:

- Alabama: Statute of Limitation on a Note is six (6) years. See, ALA. CODE § 6-2-34.
- Arkansas: Statute of Limitation on a Promissory Note is five (5) years (tolled by partial payments and written acknowledgment of default). See, Ark. Code Ann. § 16-56-111.
- Florida: Statute of Limitation on an unsecured Note is five (5) years. See, § 95.11(2)(b), FLA. STAT. Statute of Limitation on a secured Note is five (5) years. See, § 95.11 section 95.11(2)(b), FLA. STAT.

Future blogs will provide the statute of limitation periods for collection on a promissory note for the states of Georgia, Louisiana, Mississippi, Louisiana, North Carolina, South Carolina, Tennessee and Texas.