

§817. Limitation of actions for breach of covenants; vested interest in 6-year limitations period

1. Twenty years. An action on a breach of covenants in any deed or other instrument for the conveyance of real property in this State or any interest therein must be commenced within 20 years after the cause of action accrues. This subsection applies to all deeds and other instruments for the conveyance of real property executed on or after October 7, 1967.

[PL 2011, c. 124, §1 (NEW).]

2. Vested interest in 6-year statute of limitations; notice, right of action; trial. A person who is a party to an instrument conveying real property that was not executed under seal and for which the 6-year statute of limitations on causes of action for breach of covenants expired before the effective date of this section and who claims the benefit of the 6-year statute of limitations may record within 12 months of the effective date of this section in the registry of deeds where the instrument is recorded or the property is located a conformed copy of the notice set forth in this subsection.

A. The notice must include the names of the current record owner of the real property that was the subject of the instrument and the mortgagees of record. Within 20 days of recording the notice, the person shall give a copy of the notice to the current record owners and the mortgagees by mailing by the United States Postal Service, postage prepaid. The notice must be substantially as follows.

"NOTICE

By virtue of the Maine Revised Statutes, Title 14, section 817, subsection 2, the following instrument that was not executed under seal is deemed to be subject to a 20-year limitations period for breach of covenants if no claim of a vested right to assert the 6-year statute of limitations for breach of covenants is timely made:

(list here the instrument by grantor name, grantee name, date of execution and recording information, if any)

This instrument affects real estate located at (identify here street location, municipality and county where the real estate is located).

Pursuant to the Maine Revised Statutes, Title 14, section 817, the undersigned hereby claims a vested right to assert the defense of statute of limitations for any cause of action asserting a breach of covenants in the above described instrument that is not commenced within 6 years of the date the cause of action accrued." [PL 2011, c. 124, §1 (NEW).]

B. A person receiving a notice under paragraph A is barred from maintaining an action for breach of covenants under the identified instrument by the 6-year limitations period unless within one year from the date of the recording of the notice the person files in the registry of deeds where the notice was recorded a statement under oath claiming application of the 20-year statute of limitations. The claim to applicability of the 20-year statute of limitations is barred unless, within 180 days of the recording of the statement, the claimant or a person on behalf of the claimant commences a declaratory judgment action under Title 14, chapter 707. [PL 2011, c. 124, §1 (NEW).]

C. Upon trial of an action initiated under paragraph B, the court shall declare the 20-year limitations period applicable if the court finds that:

(1) The grantee of the instrument did not, at the time of delivery of the instrument, intend for the 6-year statute of limitations to apply; or

(2) The grantor executed the instrument fraudulently or in bad faith. [PL 2011, c. 124, §1 (NEW).]

[PL 2011, c. 124, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 124, §1 (NEW).

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