

Statutes of Limitations & Executor's Liability

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- 1 year: Medical malpractice for actions based on insertion of a foreign object
- 2 years: Product liability, personal injury, fraud, libel, slander, defamation, medical malpractice, wrongful death
- 3 years: Oral agreements and open accounts for collection of debts
- 5 years: Written contracts, claim of or **against** a legatee or distribute. Any legatee and distribute, and his/her representative, remain liable for five years, to refund a proportion of any subsequently proven claims, against the decedent or his estate, and the cost attending their recovery¹.
- 6 years: Promissory notes
- 10 years: Suit to surcharge or falsify the account². A party who filed exceptions to the Commissioner's report may not bring a suit to surcharge and falsify. The petitioner must point out the errors in the account in a suit to surcharge or falsify the account. 10 years: IRS estate tax lien
- 20 years: For real estate subject to bequest, a suit to subject the real estate to payment of the specified sum of money shall be brought within 20 years³. A real estate subject to bequest exists when a testator bequeaths real estate to a beneficiary and requests the beneficiary to pay another person a specified sum of money, or provides a legacy for some person which constitutes a charge against the real estate of the testator.

In addition, Va. Code Ann. §8.01-229 (B) tolls the statute of limitation against the decedent for whom an action may be brought. This statute is pretty lengthy and should be reviewed carefully. In summary of this statute, if the cause of action accrued before death, the action has to be brought within the applicable limitations period or **within one year** after the qualification of the personal representative, whichever occurs later.

On the other hand, if the cause of action accrues after death, the action shall be brought against the personal representative for the expiration of the applicable limitation period or **within two years** after the qualification of the personal representative, whichever occurs later.

¹ Va. Code §64.1-179

² Va. Code Ann. §8.01-245

³ Va. Code Ann. §8.01-254