

## Statutes of Limitations: Idaho

by Kristyn B. Escalante and Brook B. Bond, Parsons Behle & Latimer, with Practical Law Litigation

Status: Law stated as of 19 Apr 2022 | Jurisdiction: Idaho, United States

This document is published by Practical Law and can be found at: [us.practicallaw.tr.com/w-033-0917](https://us.practicallaw.tr.com/w-033-0917)

Request a free trial and demonstration at: [us.practicallaw.tr.com/about/freetrial](https://us.practicallaw.tr.com/about/freetrial)

A Q&A guide to the statutes of limitations in Idaho for several commercial claims. Answers to questions can be compared across a number of jurisdictions (see Statutes of Limitations: State Q&A Tool).

Due to the ongoing COVID-19 pandemic, the Idaho courts have modified or suspended many courts rules and procedures on a statewide or court-by-court basis. Check the Idaho Supreme Court's [State Judicial Emergency Orders](#) for the latest developments in this jurisdiction.

### Account Stated

#### 1. What is the statute of limitations for an account stated claim in your jurisdiction?

##### Limitations Period

In Idaho, the statute of limitations is five years for an account stated claim (Idaho Code § 5-216; *Unifund CCR, LLC v. Lowe*, 367 P.3d 145, 147-49 (2016)).

##### Accrual Date

The limitations period starts to run in an action brought to recover a balance due on a mutual, open, and current account where there have been reciprocal demands between the parties from the time of the last item proved in the account on either side (Idaho Code § 5-222).

- Four years.
- One year after the conclusion of an action brought by the state of Idaho under the Idaho Competition Act if the earlier action was based in whole or in part on any matter complained of in the later action.

(Idaho Code § 48-115(2).)

##### Accrual Date

There is no specific accrual date that applies to state antitrust claims under Idaho statute or case law (Idaho Code § 48-115(1), (2); see Question 24: General Rule for Accrual).

The limitation period is tolled for any period when a defendant fraudulently conceals events on which the cause of action is based (Idaho Code § 48-115(3); see Question 24: Equitable Estoppel).

### Antitrust

#### 2. What is the statute of limitations for an antitrust claim in your jurisdiction?

##### Limitations Period

In Idaho, the statute of limitations is four years for an antitrust action brought by the Idaho attorney general (Idaho Code § 48-115(1)).

The statute of limitations for all other antitrust actions is the later of:

### Breach of Contract

#### 3. What is the statute of limitations for a breach of contract claim in your jurisdiction?

##### Limitations Period

In Idaho, the statutes of limitations for breach of contract claims are:

- Five years for written contracts (Idaho Code § 5-216).
- Four years for oral contracts (Idaho Code § 5-217).



- Four years for a breach of a contract for sale under the Uniform Commercial Code (UCC). The parties:
  - may reduce the limitation period to no less than one year; but
  - may not extend it.(Idaho Code § 28-2-725(1).)
- Four years for leases under the UCC. The parties may reduce that time to no less than one year (Idaho Code § 28-12-506(1)).

### Accrual Date

The limitations period starts to run on the date of breach (*Gregory v. Stallings*, 468 P.3d 253, 258 (Idaho 2020)). The question of when the breach occurred is a factual one (*Spence v. Howell*, 890 P.2d 714, 721 (Idaho 1995)).

Under the UCC:

- For contracts of sale, the cause of action accrues on the date of the breach, regardless of a lack of knowledge of the breach by the injured party (Idaho Code § 28-2-725(2)).
- For leases, the cause of action accrues on the later of when:
  - the act or omission is or should have been discovered; or
  - the default or breach occurred.

(Idaho Code § 28-12-506(2).)

## Breach of Fiduciary Duty

### 4. What is the statute of limitations for a breach of fiduciary duty claim in your jurisdiction?

#### Limitations Period

The statute of limitations is four years for breach of fiduciary duty under Idaho's "catch-all" statute of limitation (Idaho Code § 5-224; *Jones v. Runft, Leroy, Coffin & Matthews, Chartered*, 873 P.2d 861, 868 (Idaho 1994) (The breach of fiduciary duty is not covered by any specific statute of limitations, so the four-year statute of limitation contained in Idaho Code § 5-224 applies)). For more information, see Question 23: Catch-All.

### Accrual Date

The limitations period starts to run the date of the first negligent act (*Jones*, 873 P.2d at 866-67) but may be extended until the time the injured party knew or should have known of the breach if the underlying claim is based on contract or other agreement (*Adair v. Radobenko*, 2004 WL 2750851, at \*3, \*4 (Idaho Dist. Sept. 8, 2004)).

## Breach of Warranty

### 5. What is the statute of limitations for a breach of warranty claim in your jurisdiction?

#### Limitations Period

In Idaho, the statute of limitations is four years for breach of a warranty for sale of goods (Idaho Code § 28-2-725(1)).

Contracting parties may reduce the limitation period to as little as one year, but parties may not contract to extend this limitation period (Idaho Code § 28-2-725(1)).

### Accrual Date

The limitations period starts to run when the seller tenders delivery. If the warranty explicitly extends to future performance of the goods, discovery of the breach must await the time of performance when the breach is or should have been discovered. At that time, the limitations period starts to run. (Idaho Code § 28-2-725(2).)

A breach can occur regardless of the injured party's knowledge of the breach (Idaho Code § 28-2-725(2)).

The implied warranty of merchantability relates to the condition of goods at time of delivery and does not extend into the future. For warranty coverage to extend to future performance, it must be expressed. (Idaho Code §§ 28-2-314, 28-2-725(2); *Dickerson v. Mountain View Equip. Co.*, 710 P.2d 621, 625-26 (Idaho 1985).)

## Consumer Protection Statutes

### 6. What is the statute of limitations for a consumer protection claim in your jurisdiction?

### Limitations Period

The statute of limitations is two years for a consumer protection claim under the Idaho Consumer Protection Act (ICPA) (Idaho Code § 48-619).

### Accrual Date

The limitations period starts to run for a consumer protection claim when, because of another person's use of a method, act, or practice prohibited by the ICPA, the person who purchased or leased goods or services suffers:

- An ascertainable loss of money.
- A measurable loss of real or personal property.

(Idaho Code § 48-608(1).)

## Conversion

### 7. What is the statute of limitations for a conversion claim in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations is three years for conversion (Idaho Code § 5-218(3)).

### Accrual Date

The limitations period starts to run when the item is wrongfully taken (*McCormack v. Caldwell*, 266 P.3d 490, 495 (Idaho Ct. App. 2011); *Western Corp. v. Vanek*, 158 P.3d 313, 314 (Idaho Ct. App. 2006)).

## Employment Matters

### 8. What is the statute of limitations for employment matters in your jurisdiction?

### Limitations Period

In Idaho, the statutes of limitations are:

- Two years for wages, penalties, and liquidated damages under any law or contract of employment (Idaho Code § 45-614).
- Twelve months if salary or wages have been paid and an employee claims to be due additional salary, wages, or more from work done or services performed while employed (Idaho Code § 45-614).

- One year for discrimination claims under Idaho law, which must be filed with the Idaho Human Rights Commission (Idaho Code § 67-5907(1)).

For information about limitations affecting an employee's ability to file a workers' compensation claim, see [State Q&A, Workers' Compensation Laws: Idaho: Notifying the Employer](#).

### Accrual Date

The limitations period starts to run when:

- For salary or wages, an employee has a right to collect the wages that the employee alleges are owed to them (*Callenders, Inc. v. Beckman*, 814 P.2d 429, 434 (Idaho Ct. App. 1991)).
- For discrimination claims, the discrimination occurs (*Lapham v. Stewart*, 51 P.3d 396, 400 (Idaho 2002)).
- For workers' compensation claims, see [State Q&A, Workers' Compensation Laws: Idaho: Notifying the Employer](#).

## Enforcement of Judgments

### 9. What is the statute of limitations for enforcing a judgment in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations is 11 years for enforcing a judgment (Idaho Code § 5-215).

### Accrual Date

The limitations period starts to run the date the court enters judgment (*Bennett v. Bank of E. Oregon*, 472 P.3d 1125, 1136 (Idaho 2020)).

## Fraud

### 10. What is the statute of limitations for a fraud claim in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations is three years for fraud (Idaho Code § 5-218(4)). For fraud claims brought under the Idaho Consumer Protection Act, see Question 6.

### Accrual Date

The limitations period starts to run when the aggrieved party discovers the facts constituting the fraud (Idaho Code § 5-218(4); see Question 24: Discovery Rule).

### Fraudulent Concealment

#### 11. What is the statute of limitations for a fraudulent concealment claim in your jurisdiction?

#### Limitations Period

Idaho does not recognize a substantive claim for fraudulent concealment. Rather, it is a tolling principle. (For information about the fraudulent concealment doctrine, see Question 24: Fraudulent Concealment.)

#### Accrual Date

Idaho does not recognize a substantive claim for fraudulent concealment. Rather, it is a tolling principle. (For information about the fraudulent concealment doctrine, see Question 24: Equitable Estoppel.)

### Insurance Bad Faith

#### 12. What is the statute of limitations for an insurance bad faith claim in your jurisdiction?

#### Limitations Period

In Idaho, the statute of limitations is five years for an insurance bad-faith claim, applying the statute relevant to an instrument in writing (Idaho Code § 5-216; but see *Strong v. Unumprovident Corp.*, 393 F. Supp. 2d 1012, 1022 (D. Idaho 2005) (Stating that Idaho law appears to allow a statutory limitation on a bad-faith tort claim of four years but applied Texas law); *Christonson v. U.S.*, 415 F. Supp. 2d 1186, 1199 (D. Idaho 2006) (The applicable limitations period in Idaho for insurance bad faith is four years)).

#### Accrual Date

The limitations period starts to run when a claim accrues on the breach of the contract (*Yu v. Idaho State Univ.*, 444 P.3d 885, 890 (Idaho 2019) (quoting *Spence*, 890 P.2d at 721)).

### Negligence

#### 13. What is the statute of limitations for a negligence claim in your jurisdiction?

#### Limitations Period

In Idaho, the statute of limitations is two years for negligence (Idaho Code § 5-219(4)).

#### Accrual Date

The limitations period starts to run when the occurrence, act, or omission complained of took place (Idaho Code § 5-219(4)).

### Products Liability

#### 14. What is the statute of limitations for a products liability claim in your jurisdiction?

#### Limitations Period

In Idaho, the statute of limitations is two years for a products liability claim (Idaho Code § 6-1403(3)).

#### Accrual Date

The limitations period starts to run from the date of:

- The occurrence.
- The defendant's act.
- The defendant's omission.

(Idaho Code §§ 5-219(4) and 6-1403(3).)

### Shareholder Derivative Suits

#### 15. What is the statute of limitations for a shareholder derivative suit in your jurisdiction?

#### Limitations Period

In Idaho, the statute of limitations is three years for an action against directors or stockholders of a corporation (Idaho Code § 5-237).

### Accrual Date

The limitations period starts to run after the aggrieved party's discovery of the facts that:

- Gave rise to the penalty or forfeiture.
- Created the liability.

(Idaho Code § 5-237.)

### Third-Party Contribution

#### 16. What is the statute of limitations for a third-party contribution claim in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations is four years for indemnity or contribution (Idaho Code § 5-224). The statute of limitations for the cause of action for indemnity or contribution is distinct from that of the underlying cause of action (*Schiess v. Bates*, 693 P.2d 440, 442 (Idaho 1984)).

### Accrual Date

The limitations period starts to run when the plaintiff has paid or discharged the underlying claim, judgment, or settlement (*Schiess*, 693 P.2d at 442).

### Tortious Interference with Contract Rights

#### 17. What is the statute of limitations for claim of tortious interference with contract rights or business relationship in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations is two years for a tort claim (Idaho Code § 5-219(4)).

### Accrual Date

The limitations period starts to run when the defendant commits:

- The occurrence.
- The act.
- The omission.

(Idaho Code § 5-219(4).)

### Trade Secret Misappropriation

#### 18. What is the statute of limitations for a trade secret misappropriation claim in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations is three years for an action for trade secret misappropriation (Idaho Code § 48-805).

### Accrual Date

The limitations period starts to run when the misappropriation:

- Is discovered.
- In the exercise of reasonable diligence, should have been discovered.

(Idaho Code § 48-805; see Question 24: Fraudulent Concealment.)

### Trademark Infringement

#### 19. What is the statute of limitations for a trademark infringement claim in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations for the registration and protection of trademarks is not stated. Therefore, the applicable limitation period for an Idaho trademark infringement claim is four years. (Idaho Code § 5-224; see Question 23: Catch-All.)

### Accrual Date

The limitations period starts to run when the infringement occurred (Idaho Code § 5-224).

### Unfair Competition

#### 20. What is the statute of limitations for an unfair competition claim in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations is two years for unfair competition (Idaho Code § 48-619).

### Accrual Date

The limitations period starts to run when a party:

- Knows of the unfair competition.
- With the exercise of reasonable diligence should have known that a cause of action for unfair competition existed.

(*Performance Chevrolet, Inc. v. Market Scan Info. Sys., Inc.*, 402 F. Supp. 2d 1166, 1172 (D. Idaho 2005).)

## Unjust Enrichment

### 21. What is the statute of limitations for an unjust enrichment claim in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations is four years for unjust enrichment (*Berian v. Berberian*, 483 P.3d 937, 952 (Idaho 2020); *Witt v. Jones*, 722 P.2d 474, 478 (Idaho 1986) (quoting *Templeton Patents, Ltd. v. J.R. Simplot Co.*, 220 F. Supp. 48, 60 (D. Idaho 1963) (Claims of unjust enrichment are in the nature of a contract and therefore governed by the four-year statute of limitation for oral contracts))).

### Accrual Date

The limitations period starts to run when the agreement is breached (*Berian*, 483 P.3d at 953).

## Wrongful Death and Survival

### 22. What is the statute of limitations for a wrongful death and survival claim in your jurisdiction?

### Limitations Period

In Idaho, the statute of limitations is two years for a wrongful death claim (Idaho Code § 5-219(4)).

The statute governing the survival of claims, Idaho Code Section 5-327, provides that a cause of action does not abate on the death of the wrongdoer or the injured person if the action:

- Arose from or was caused by the wrongful act or negligence of another.
- Caused injury to the person or property, or death.

(Idaho Code § 5-327(2).)

It does not extend to actions for slander or libel (Idaho Code § 5-327(2)).

The statute does not provide a time limit, but only provides that, for an action to survive, the action must either:

- Be commenced when the injured person died.
- If pending as a personal injury suit, after the victim's death, be prosecuted by:
  - the personal representative of the estate of the deceased person; or
  - by those persons who would be entitled to succeed to the property of the deceased person.

(Idaho Code § 5-327(2).)

The statute provides for a limitation on the types of damages that may be recovered in the case of personal injury or property damage caused by wrongful acts or negligence (Idaho Code § 5-327(2)).

### Accrual Date

The limitations period for a wrongful death claim starts to run at the time of death (*Castorena v. General Elec.*, 238 P.3d 209, 219 (Idaho 2010)).

If, to escape responsibility for wrongful act, the wrongdoer fraudulently and knowingly concealed the act or breach, the cause of action accrues when the injured party knows or in the exercise of reasonable care should have been put on inquiry regarding the matter (Idaho Code § 5-219(4); see Question 24: Equitable Estoppel).

## Other Commercial Causes of Action

### 23. Please describe any other statutes of limitation for commercial causes of action in your jurisdiction of which practitioners should be aware.

### Libel, Slander, Assault, Battery, False Imprisonment, or Seduction

#### Limitations Period

In Idaho, the statute of limitations is two years for:

- Libel and slander.
- Assault and battery.
- False imprisonment.
- Seduction.

(Idaho Code § 5-219(5).)

#### Accrual Date

Idaho law does not state, and the courts have not addressed, when these causes of action accrue (see Question 24: General Rule for Accrual).

### Action to Foreclose Mortgage on Real Property

#### Limitations Period

In Idaho, the statute of limitations is five years for the foreclosure of a mortgage on real property (Idaho Code § 5-214A).

#### Accrual Date

The limitations period starts to run on the maturity date of the obligation or indebtedness secured by the mortgage. If there is no stated maturity date, then the date of the accrual of the cause of action giving rise to the right to foreclose is deemed to be the date of maturity of the obligation or indebtedness. (Idaho Code § 5-214A.)

### Actions Against Officers for Penalties

#### Limitations Period

In Idaho, the statute of limitations is two years for claims against a sheriff, coroner, or constable acting in their official capacity (Idaho Code § 5-219(1)).

#### Accrual Date

The limitations period starts to run when the act giving rise to the cause of action is completed (*Walsh v. Swapp Law, PLLC*, 462 P.3d 607, 615 (Idaho 2020)).

### An Action Based on a Liability Created by Statute

#### Limitations Period

In Idaho, the statute of limitations is two years for any action based on a statute where the time is not imposed by the statute (Idaho Code § 5-219(2)).

#### Accrual Date

The limitations period starts to run on the discovery by the state of Idaho or any political subdivision of it of the facts creating the liability (Idaho Code § 5-218).

### Trespass to Chattels

#### Limitations Period

In Idaho, the statute of limitations is three years for trespass to chattels (Idaho Code § 5-218).

#### Accrual Date

The limitations period starts to run on the date the trespass is committed (Idaho Code § 5-218).

### Fraud or Mistake

#### Limitations Period

In Idaho, the statute of limitations is three years for fraud or mistake (Idaho Code § 5-218(4)).

#### Accrual Date

The limitations period starts to run on the date the aggrieved party discovers the facts of the fraud or mistake (Idaho Code § 5-218(4); *McCorkle v. Nw. Mut. Life Ins. Co.*, 112 P.3d 838, 842-43 (Idaho Ct. App. 2005)).

### Real Property Actions

In Idaho, the statutes of limitations for real property actions are:

- Three years for trespass on real property (Idaho Code § 5-218).
- 20 years:
  - for the recovery of realty if the plaintiff or their ancestor, predecessor, or grantor was seized of or had the property within the 20-year period (Idaho Code § 5-203);

- for the recovery of title, rents, or profits if the plaintiff or their ancestor, predecessor, or grantor was seized or had the property within the 20-year period (Idaho Code § 5-204); and
- for adverse possession (Idaho Code § 5-206).

### Professional Malpractice

#### Limitations Period

In Idaho, the statute of limitations is two years for professional malpractice (Idaho Code § 5-219(4)).

#### Accrual Date

The cause of action accrues when the act complained of occurred, if there is some objectively measurable damage (Idaho Code § 5-219(4); *Stuard v. Jorgenson*, 249 P.3d 1156, 1160 (Idaho 2011)).

In other cases, the cause of action is deemed to accrue when the injured party knows or in the exercise of reasonable care would have been put on inquiry regarding the condition or matter complained of and either:

- The action arises out of a foreign object left in the body by reason of the professional malpractice of any hospital, physician, or other person or institution practicing any of the healing arts.
- The fact of damage has been fraudulently and knowingly concealed from the injured party to escape responsibility by an alleged wrongdoer who stood in a professional or commercial relationship with the injured party when the wrongful act, neglect, or breach occurred.

(Idaho Code § 5-219(4).)

In these cases, the actions must be commenced by the later of:

- One year following the date of accrual.
- Two years following the occurrence, act, or omission.

(Idaho Code § 5-219(4).)

The existence of “some damage” is a question of fact (*Minnick v. Hawley Troxnell Ennis & Hawley, LLP*, 341 P.3d 580, 583-84 (Idaho 2015)).

### Construction Defects

#### Limitations Period

In Idaho, the statute of limitations for actions against any person having performed or furnished the design, planning, supervision, or construction of an improvement to real property is:

- Six years if the action sounds in tort.
- If the action sounds in contract, the appropriate statute of limitations for contracts applies (see Question 3: Contracts: Limitations Period).

(Idaho Code § 5-241.)

#### Accrual Date

The limitations period starts to run:

- For tort actions, see Question 13: Accrual Date.
- For contract actions, Question 3: Accrual Date.

(Idaho Code § 5-241.)

### Dram Shop

#### Limitations Period

In Idaho, the statute of limitations is 180 days from the date the cause of action arose for dram shop liability (Idaho Code § 23-808).

#### Accrual Date

The accrual date is not specified in the statute (see Question 24: General Rule for Accrual).

### Hazardous Waste

#### Limitations Period

In Idaho, the statute of limitations is two years for enforcement of an action for violation of the Hazardous Waste Management Act (Idaho Code § 39-4413(C)).

#### Accrual Period

The limitations period starts to run when the director of the Idaho Department of Environmental Quality or their authorized agent has knowledge or reasonably ought to have had knowledge of the violation (Idaho Code § 39-4413(C)).

### Mechanics Lien

#### Limitations Period

The statute of limitations is six months for the enforcement of a mechanic’s lien in Idaho (Idaho Code § 45-510(1)).

For the claimant to be able to enforce the mechanic’s lien, within 90 days from the end of providing labor, materials, or services, the claimant must have filed a statement of the amount due in the office of the register



of deeds in the county where the property is located (Idaho Code § 45-507(2)).

### Accrual Date

The limitations period starts to run when either the last of:

- The labor or services are performed.
- The labor, materials, or services are furnished.

(Idaho Code § 45-501.)

### Catch-All

The Idaho catch-all statute of limitation is four years for any action for relief not otherwise specifically stated (Idaho Code § 5-224).

### Catch-All for Statutory Actions

The Idaho catch-all statute of limitations is three years for any action that is not a penalty or forfeiture based on a liability created by statute in favor of Idaho or any political subdivision (Idaho Code § 5-218(1)).

## Special Rules and Exceptions

**24. Please list any special rules and exceptions that may toll or otherwise affect any of the statutes of limitation in the previous questions.**

### General Rule for Accrual

Where the statute states no specific time for a cause of action accruing, the statute of limitations begins to run when a party may maintain a lawsuit against another (*W. Corp. v. Vanek*, 158 P.3d 313, 314 (Idaho Ct. App. 2006)). A cause of action accrues and the statute of limitations begins to run when a cause of action exists (*Swafford v. Huntsman Springs, Inc.*, 409 P.3d 789, 792 (Idaho 2017) (quoting *Lido Van and Storage, Inc. v. Kuck*, 719 P.2d 1199, 1202 (Idaho 1986)); *Klein v. Farmers Ins. Co. of Idaho*, 453 P.3d 266, 271 (Idaho 2019)).

The date when a cause of action accrues is a question of law (*Sommer v. Misty Valley, LLC*, 2021 WL 6017844 (Idaho Dec. 21, 2021)).

### Tolling

Idaho does **not** recognize a general tolling of a statute of limitations unless tolling is expressly provided in the

relevant statute (*Stoltz v. Fry Foods, Inc.*, 60 F. Supp. 3d 1132, 1143 (D. Idaho 2014) (Idaho does not recognize the doctrine of equitable tolling); *Wilhem v. Frampton*, 158 P.3d 310, 312 (Idaho 2007) (Express statutory language only may toll a statute of limitation)).

### Fraudulent Concealment

In Idaho, fraudulent concealment provides an injured party with one additional year to file their claim after discovering it (Idaho Code § 5-219(4); *Walsh*, 462 P.3d at 617 (Idaho 2020)).

The doctrine applies **only** to actions for:

- Professional malpractice.
- An injury to the person.
- A death caused by the wrongful act or neglect of another, including any action arising from breach of an implied warranty or implied covenant.

(Idaho Code § 5-219(4).)

Under § 5-219(4), the statute of limitations is tolled until the injured party knows or in the exercise of reasonable care should know that the injury was wrongfully caused (*McCoy v. Lyons*, 820 P.2d 360, 367 (Idaho 1991) (quoting Idaho Code § 5-219(4))). At that point, the party is given one additional year to bring its claim (Idaho Code § 5-219(4); *Walsh*, 462 P.3d at 617 (Idaho 2020)).

### Equitable Estoppel

The **only** non-statutory bar to a statute of limitation defense in Idaho is the doctrine of equitable estoppel (*Ferro v. Soc'y of Saint Pius X*, 149 P.3d 813, 815 (Idaho 2006)). It does not eliminate, toll, or extend the statute of limitations. Instead, it bars a party from asserting the statute of limitations as a defense for a reasonable time after the party discovers, or reasonably could have discovered, the truth (*Ferro*, 149 P.3d at 815-16).

### Persons Under Disabilities

#### Recovery of Real Property

If a person is disabled (for example, is a minor, insane, or imprisoned), an action to recover real property must be commenced within 20 years:

- After the disability ends.
- Following the death of the person while under the disability.

(Idaho Code § 5-213.)

### Other Actions

For actions other than for the recovery of real property, a disabled person may begin an action within six years after:

- Reaching the age of majority.
- Return following the defendant's absence from the jurisdiction.
- The termination of the incompetency or other legal disability.

(Idaho Code § 5-230.)

### Class Actions

Idaho recognizes the class action tolling rule. The rule suspends the applicable statute of limitations for all asserted members of the class who would have been parties had the suit been permitted to continue as a class. (*Pope v. Intermountain Co.*, 646 P.2d 988, 1010 n. 28 (Idaho 1982) (quoting *Am. Pipe & Constr. Co. v. Utah*, 414 U.S. 538 (1974)).)

### Government Entity as a Defendant

A plaintiff must bring a tort claim against a government entity in Idaho by the later of either two years after the date the claim arose or reasonably should have been discovered (Idaho Code § 6-911; see Question 24: Discovery Rule).

### Savings Statute

The Idaho Savings Statute provides that where a plaintiff starts an action within the time prescribed and an appeal reverses a judgment in the matter in the plaintiff's favor, a new action may begin within one year after the reversal by:

- The plaintiff.
- Their representatives if they have died and the cause of action survives.

(Idaho Code § 5-233.)

### Acknowledgment or New Promise

An acknowledgment or promise to pay a debt is not evidence of a new or continuing contract that extends the statute of limitations unless it is:

- Contained in a writing.
- Signed by the party against whom it is to be used.

(Idaho Code § 5-238.)

The payment of principal or interest is equivalent to a new written promise to pay the residue of the debt (Idaho Code § 5-238).

### Foreign Statutes of Limitation

If a cause of action arises in another state, territory, or in a foreign country, and under that jurisdiction's laws, an action cannot be maintained against a person because of the lapse of time, the action can only be brought in Idaho, if the plaintiff both:

- Is a citizen of Idaho.
- Held the cause of action from the time it accrued.

(Idaho Code § 5-239.)

### Defendant's Absence from the State

Idaho's statutes of limitation are tolled while a defendant is outside of Idaho (Idaho Code § 5-229).

### Stay by Injunction

The statute of limitations is tolled when an injunction or statutory prohibition stays the start of the action (Idaho Code § 5-234).

### Emergency or Weather Closure

If the last day to begin an action falls on a day that the district court clerk is usually open to the public, the limitations period extends to the end of business hours on the first full day the office reopens to transact business with the public if the office was closed for all or part of a day because of:

- Severe weather conditions.
- A real or threatened emergency.

(Idaho Code § 5-228A.)

### "Useful Safe Life" Statute of Repose

Unless a product's seller expressly warrants a product's useful life for a longer period, a product seller is not subject to an action for liability for harm caused after a product's useful safe life. A product's "useful safe life" begins when product is delivered and extends until the end of the time the product would normally be expected to perform in a safe manner. (Idaho Code § 6-1403.)

Claims for harm caused more than ten years after a product's delivery are presumed to have occurred after the product's useful safe life unless:

## Statutes of Limitations: Idaho

- Rebutted by clear and convincing evidence.
- The seller intentionally represented a safe life of longer than ten years.
- The seller intentionally misrepresented or fraudulently concealed facts about the product that were a substantial cause of the claimant's harm.
- The harm was due to prolonged exposure to a defect in the product.

(Idaho Code § 6-1403(a), (b).)

### About Practical Law

Practical Law provides legal know-how that gives lawyers a better starting point. Our expert team of attorney editors creates and maintains thousands of up-to-date, practical resources across all major practice areas. We go beyond primary law and traditional legal research to give you the resources needed to practice more efficiently, improve client service and add more value.

If you are not currently a subscriber, we invite you to take a trial of our online services at [legalsolutions.com/practical-law](https://legalsolutions.com/practical-law). For more information or to schedule training, call 1-800-733-2889 or e-mail [referenceattorneys@tr.com](mailto:referenceattorneys@tr.com).