

Statutes of Limitations: Illinois

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

Account Stated

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

Limitations Period

In Illinois, the statute of limitations for an account stated claim is five years (735 ILCS 5/13-205; see *Portfolio Acquisitions, LLC v. Feltman*, 391 Ill. App. 3d 642, 652 (2009)).

Accrual Date

The limitations period for an account stated claim starts to run when one party sends the first statement of account to another who retains it without objection for an unreasonable amount of time (see *Toth v. Mansell*, 207 Ill. App. 3d 665, 672 (1990)).

Antitrust

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

Limitations Period

In Illinois, the statute of limitations for an antitrust claim is four years (740 ILCS 10/7(2), (4)).

Accrual Date

The limitations period for an antitrust claim starts to run when the market conduct prohibited by 740 ILCS 10/3 is committed. Where a plaintiff alleges that multiple antitrust acts have occurred as part of an ongoing antitrust conspiracy, courts have held that the claim accrues on the date of the last overt act committed to further the conspiracy (740 ILCS 10/7(2), (4); see *People ex rel. Hartigan v. Moore*, 143 Ill. App. 3d 410, 412-13 (1986)).

Breach of Contract

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

Limitations Period

In Illinois, the statute of limitations for a breach of contract claim is:

- Ten years for a written contract (735 ILCS 5/13-206; see *United Airlines, Inc. v. City of Chi.*, 2011 IL App (1st) 102299, ¶ 10).
- Five years for an oral contract (735 ILCS 5/13-205; *Armstrong v. Guigler*, 174 Ill. 2d 281, 287 (1996)).
- Four years for a contract for sale under the Illinois Uniform Commercial Code (810 ILCS 5/2-725(1)).

Parties may agree to a shortened contractual limitations period if it is reasonable (*15th Place Condo. Ass'n v. S. Campus Dev. Team, LLC*, 2014 IL App (1st) 122292, ¶ 28).

Accrual Date

The limitations period for a breach of contract claim starts to run from the date of the breach (810 ILCS 5/2-725(2); *Hermitage Corp. v. Contractors Adjustment Co.*, 166 Ill. 2d 72, 77 (1995)).

Breach of Fiduciary Duty

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

Limitations Period

In Illinois, the statute of limitations for a breach of fiduciary duty claim is five years (735 ILCS 5/13-205; *Armstrong*, 174 Ill. 2d at 296-98).

Accrual Date

The limitations period for a breach of fiduciary duty claim starts to run when the plaintiff suffers an injury caused by the breach (*Clark v. Robert W. Baird Co.*, 142 F. Supp. 2d 1065, 1074-75 (N.D. Ill. 2001) (applying Illinois law)).

Breach of Warranty

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

Limitations Period

In Illinois, the statute of limitations is:

- Four years for a breach of warranty claim (810 ILCS 5/2-725(1)).
- Three years for a claim involving a negotiable instrument (for example, checks, bearer bonds, and promissory notes) (810 ILCS 5/3-118(g)).

Accrual Date

The limitations period for a breach of warranty claim typically starts to run when the goods are delivered.

However, where a warranty expressly extends to future performance of the goods, and discovery of the breach must await the time of that future performance, the cause of action accrues when the breach is or should have been discovered with reasonable diligence. (810 ILCS 5/2-725(2); *Cosman v. Ford Motor Co.*, 285 Ill. App. 3d 250, 255-57 (1996)).

Consumer Protection Statutes

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

Limitations Period

Consumer Fraud and Deceptive Business Practices Act

In Illinois, the statute of limitations is three years under the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/10a(e); *McCready v. Ill. Sec'y of State*, 382 Ill. App. 3d 789, 798 (2008)).

Action for Damages Involving Criminal Acts

The limitations period for actions seeking damages arising from criminal conduct is ten years from the last act committed in furtherance of the crime for actions based on:

- Theft of property exceeding \$100,000 in value.
- Identity theft.
- Aggravated identity theft.
- Financial exploitation of an elderly or disabled person.
- Financial institution fraud.

(735 ILCS 5/13-214.1(b).)

Where another provision of law specifically provides for a longer limitation period, the longer limitation period applies (735 ILCS 5/13-214.1(b)).

Accrual Date

Consumer Fraud and Deceptive Business Practices Act

The limitations period starts to run when a person knows or reasonably should know:

- Of the injury.
- That the injury was wrongfully caused.

(See *Mosier v. Vill. of Holiday Hills*, 2019 IL App (2d) 180681, ¶ 23.)

Action for Damages Involving Criminal Acts

The limitations period starts to run on the date the last act was committed in furtherance of the crime (735 ILCS 5/13-214.1(b)).

Conversion

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

Limitations Period

In Illinois, the statute of limitations is five years for a claim involving personal property (735 ILCS 5/13-205). For a claim involving a negotiable instrument (for example, checks, bearer bonds, and promissory notes), it is the earlier of either:

- Three years after it was due for payment and went unpaid.
- Ten years after the date it was drafted.

(810 ILCS 5/3-118(c), (g), and 5/4-111.)

Accrual Date

The limitations period starts to run on the date of the conversion for a claim involving personal property (*Nelson v. Sotheby's Inc.*, 115 F. Supp. 2d 925, 929 (N.D. Ill. 2000) (applying Illinois law)).

For a claim involving a negotiable instrument, the limitations period begins on either:

- The date that payment was due and went unpaid.
- The date the instrument was drafted.

(810 ILCS 5/3-118(c), (g).)

Employment Matters

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

Limitations Period

In Illinois, the statutes of limitations are:

- Effective January 1, 2025, two years to file a complaint with the [Illinois Department of Human Rights](#) for claims under the Illinois Human Rights Act, including discrimination and civil rights violations (775 ILCS 5/7a-102(A)(1)).
- Three years for claims under the Minimum Wage Law (820 ILCS 105/12(a)).
- For claims under the Illinois Wage Payment and Collection Act:
 - one year to file a complaint with the [Illinois Department of Labor](#) (IDOL) (820 ILCS 115/11);
 - five years to file a civil action for an unwritten promise to pay (735 ILCS 5/13-205); and
 - ten years to file a civil action for a written promise to pay (735 ILCS 5/13-206).
- Six months for claims filed under the Equal Wage Act (820 ILCS 110/2).
- For claims under the Equal Pay Act:
 - one year to file a complaint with IDOL (820 ILCS 112/15(b)); and
 - five years to bring a cause of action (820 ILCS 112/30).

Accrual Date

The limitations period starts to run, for a claim filed under:

- The Illinois Human Rights Act, when the discrimination or civil rights violation occurred (775 ILCS 5/7a-102(A)(1)).
- The Minimum Wage Law, when the underpayment occurred (820 ILCS 105/12(a)).
- Illinois Wage Payment and Collection Act, when the wages were due (820 ILCS 115/11).
- The Equal Wage Act, when the alleged violation occurred (820 ILCS 110/2).
- The Equal Pay Act, when the underpayment occurred (820 ILCS 112/15(b) and 112/30).

For more information, see [Statutes of Limitations Under Major Illinois Employment Laws Chart](#).

Enforcement of Judgments

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

Limitations Period

In Illinois, the statute of limitations for enforcing a judgment is seven years (735 ILCS 5/12-108(a)). However, Illinois law allows a judgment creditor to file a petition to revive a judgment up to:

- Ten years from the date the judgment was entered if the judgment is based on a consumer debt (735 ILCS 5/2-1602(a-5)).
- 20 years from the date the judgment was entered for any judgment other than one based on a consumer debt (735 ILCS 5/2-1602(a) and 5/13-218).

A creditor may continue to collect under the order if a judgment on a consumer debt becomes dormant while a court-supervised wage deduction order or turnover order to an employer is pending (735 ILCS 5/12-108(c)).

Accrual Date

The limitations period on the enforcement of a judgment starts to run on the date the judgment is rendered (735 ILCS 5/12-108(a)). The limitations period to revive a judgment begins to run on the date the judgment was entered (735 ILCS 5/13-218).

Fraud

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

Limitations Period

In Illinois, the statute of limitations on an action for fraud is five years (735 ILCS 5/13-205; see *CitiMortgage, Inc. v. Parille*, 2016 IL App (2d) 150286, ¶ 43). For fraud claims brought under the Consumer Fraud and Deceptive Business Practices Act, see Question 6.

Accrual Date

The limitations period for fraud starts to run on the date the plaintiff becomes aware or with reasonable

diligence should be aware that their injury was wrongfully caused (see *Khan v. BDO Seidman, LLP*, 2012 IL App (4th) 120359, ¶ 23).

Fraudulent Concealment

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

In Illinois, fraudulent concealment is a tolling principle and not an independent cause of action (735 ILCS 5/13-215; *Doe v. Boy Scouts of Am.*, 2016 IL App (1st) 152406, ¶ 80; see Question 24: Fraudulent Concealment).

Insurance Bad Faith

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

Limitations Period

In Illinois, the statute of limitations for an insurance bad faith claim is two years (735 ILCS 5/13-214.4).

Accrual Date

The limitations period for an insurance bad faith claim starts to run either:

- On the date the insurer's breach occurred.
- When the plaintiff learns that coverage was denied.

(See *State Farm Fire & Cas. Co. v. John J. Rickhoff Sheet Metal Co.*, 394 Ill. App. 3d 548, 565-67 (2009); *Ind. Ins. Co. v. Machon & Machon, Inc.*, 324 Ill. App. 3d 300, 304 (2001).)

Negligence

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

Limitations Period

In Illinois, the statutes of limitations for claims sounding in negligence are:

- Two years for personal injury claims (735 ILCS 5/13-202).
- Five years for property claims (735 ILCS 5/13-205).

Accrual Date

The limitations period for claims sounding in negligence starts to run on the date the injury occurs (*W. Am. Ins. Co. v. Sal E. Lobianco & Son Co.*, 69 Ill. 2d 126, 130 (1977)).

Products Liability

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

Limitations Period

In Illinois, the statutes of limitations for products liability claims are:

- Five years for claims related to property damage (735 ILCS 5/13-205; *Allstate Ins. Co. v. Menards, Inc.*, 202 Ill. 2d 586, 594-95 (2002)).
- Two years for personal injury claims (735 ILCS 5/13-202; *Golla v. Gen. Motors Corp.*, 167 Ill. 2d 353, 359 (1995)).

However, even if a products liability claim is started within the applicable two- or five-year limitations period, it may still be untimely if it is not started within the outermost time limit allowed under Illinois's statute of repose (see Question 24: Statutes of Repose).

Accrual Date

The limitations period for a products liability claim starts to run on the date the property damage or personal injury occurs (*Golla*, 167 Ill. 2d 353, 360-61 (1995)). However, where the discovery rule is invoked, the plaintiff must begin their action:

- Within two years after the date they first knew or should have known through reasonable diligence of the existence of the personal injury, death, or property damage alleged.
- Not more than eight years after the personal injury, death, or property damage occurred.

(735 ILCS 5/13-213(d).)

Typically, the discovery rule for products liability claims applies in cases where the plaintiff is exposed to a harmful substance but does not experience any ill effects until many years later.

Shareholder Derivative Suits

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

Limitations Period

In Illinois, shareholder derivative suits are equitable in nature (see *Mann v. Kemper Fin. Cos.*, 247 Ill. App. 3d 966, 974 (1992)). Therefore, there is no statute of limitations that applies to them (see *Conway v. Conners*, 101 Ill. App. 3d 121, 128-30 (1981)). However, a defendant may invoke the affirmative defense of laches to prevent a claimant from pursuing a claim they unreasonably neglected or delayed to pursue to the disadvantage of the defendant (*Conway*, 101 Ill. App. 3d at 128).

Accrual Date

There is no statute of limitations that applies to shareholder derivative suits.

Third-Party Contribution

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

Limitations Period

In Illinois, the statute of limitations for a third-party contribution claim is two years (735 ILCS 5/13-204(a), (b), and (e)).

Courts interpret 735 ILCS 5/13-204 to permit the filing of a contribution claim within two years of the accrual of the action but only to the extent that the plaintiffs could have timely proceeded against the contribution claim defendant directly when the plaintiffs filed their underlying complaint (*Danzig v. Univ. of Chi. Charter Sch. Corp.*, 2019 IL App (1st) 182187, ¶ 22).

Accrual Date

The limitations period for a third-party contribution claim starts to run:

- If no underlying action for an injury or death to a person or damage to property has been filed, on the date the party seeking contribution makes payment to discharge its liability on the underlying claim.
- If an underlying action for an injury or death to a person or damage to property has been filed, on the later of:
 - the date of service of process in the underlying lawsuit; or
 - when the party knew or should reasonably have known of the claim.

(735 ILCS 5/13-204(a), (b).)

Tortious Interference with Contract Rights

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

Limitations Period

In Illinois, the statute of limitations for a claim of tortious interference with contract rights or a business relationship is five years (735 ILCS 5/13-205; *Fed. Signal Corp. v. Thorn Automated Sys., Inc.*, 295 Ill. App. 3d 762, 765 (1998)).

Accrual Date

The limitations period for a tortious interference claim starts to run:

- On the date the contract was breached in a tortious interference with contract claim (*Fed. Signal Corp.*, 295 Ill. App. 3d at 766).
- When the defendant interferes with the relationship in a tortious interference with business relationship claim (*Leonel & Noel Corp. v. Cervecería Centro Americana, S.A.*, 758 F. Supp. 2d 596, 605 (N.D. Ill. 2010) (applying Illinois law)).

Trade Secret Misappropriation

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

Limitations Period

In Illinois, the statute of limitations for a trade secret misappropriation claim is five years (765 ILCS 1065/7).

Accrual Date

The limitations period for a trade secret misappropriation claim starts to run when the misappropriation is discovered or should have been discovered through reasonable diligence. Under Illinois law, a continuing misappropriation is a single claim. (765 ILCS 1065/7.)

Trademark Infringement

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

Limitations Period

No statute of limitations under Illinois law directly applies to claims brought under Illinois's Trademark Registration and Protection Act (Trademark Act) (see *Superior Paintless Dent Removal, Inc. v. Superior Dent Removal, Inc.*, 454 F. Supp. 2d 769, 772 (N.D. Ill. 2006) (applying Illinois law)). Illinois courts look to the federal Lanham Act to determine whether Trademark Act claims are timely (765 ILCS 1036/90; *Superior Paintless Dent Removal, Inc.*, 454 F. Supp. 2d at 772).

The timeliness of Lanham Act claims is governed by the doctrine of laches (see *Flentye v. Kathrein*, 485 F. Supp. 2d 903, 916 (N.D. Ill. 2007) (applying Illinois law)). To determine whether Lanham Act claims are barred by laches, courts generally consider the three-year statute of limitations applicable to claims brought under the Illinois Consumer Fraud and Deceptive Business Practices Act (see *Superior Paintless Dent Removal, Inc.*, 454 F. Supp. 2d at 772).

Accrual Date

No statute of limitations directly applies to claims brought under the Trademark Act (but see Consumer Protection Statutes).

Unfair Competition

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

Limitations Period

For claims under the Illinois Consumer Fraud and Deceptive Business Practices Act (CFDBPA), the statute of limitations is three years (815 ILCS 505/10a(e)).

The Illinois Uniform Deceptive Trade Practices Act (UDTPA) codifies the common law of unfair competition and provides for injunctive relief (815 ILCS 510/2 and 510/3). In an action for injunctive relief under UDTPA, courts may look to the three-year statute of limitations in CFDBPA when determining whether a presumption of laches applies (see *S & A Futures, LLC—Series 2 v. Sysco Chi., Inc.*, 2012 WL 851556, at *3 (N.D. Ill. Mar. 13, 2012) (applying Illinois law)).

Accrual Date

The limitations period for unfair competition claims under the CFDBPA starts to run when the plaintiff knows or reasonably should know that an injury both:

- Occurred.
- Was wrongfully caused.

(See *Blankenship v. Pushpin Holdings, LLC*, 157 F. Supp. 3d 788, 792 (N.D. Ill. 2016) (applying Illinois law).)

Unjust Enrichment

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

Limitations Period

In Illinois, the statute of limitations for an unjust enrichment claim is five years (735 ILCS 5/13-205; *CitiMortgage, Inc.*, 2016 IL App (2d) 150286, ¶ 40).

Accrual Date

The limitations period for an unjust enrichment claim starts to run when a party knows or reasonably should know that an injury both:

- Occurred,
- Was wrongfully caused.

(See *CitiMortgage, Inc.*, 2016 IL App (2d) 150286, ¶¶ 40-42.)

Wrongful Death and Survival

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

Limitations Period

In Illinois, the statute of limitations for wrongful death claims is:

- Five years after the date of death, if the death is the result of violent, intentional conduct.
- One year after the final disposition of a criminal case against a defendant that is charged with certain kinds of murder, homicide, or manslaughter.
- Two years after the establishment of an escrow account under the Criminal Victims' Asset Discovery Act (725 ILCS 145/1) resulting from certain kinds of murder or kidnapping, unless covered by the two above bullet points.
- Two years after the date of death, in all other situations.

(740 ILCS 180/2(d), (e).)

For survival actions brought on behalf of a decedent, the limitations period is the later of:

- The expiration of the limitations period for the underlying claim.
- One year from the date of the decedent's death.

(735 ILCS 5/13-209(a)(1).)

Accrual Date

The limitations period for wrongful death starts to run generally on the date of either:

- The decedent's death.
- The date of the final disposition of the criminal case against the defendant.

(740 ILCS 180/2).

The one-year time period for the decedent's personal representative to start a survival claim accrues on the date of the decedent's death (735 ILCS 5/13-209(a)(1); *Wolfe v. Westlake Cmty. Hosp.*, 173 Ill. App. 3d 608, 611 (1988)).

The discovery rule may apply to certain wrongful death and survival actions, such as those predicated on medical malpractice (*Moon v. Rhode*, 2016 IL 119572, ¶ 40; see Question 23: Medical Malpractice).

Other Commercial Causes of Action

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

Defamation and False Light

Limitations Period

The statute of limitations in Illinois for a claim for defamation and false light is one year from the point that the cause of action accrued (735 ILCS 5/13-201; see *Ciolino v. Simon*, 2021 IL 126024, ¶ 19).

Accrual Date

The cause of action accrues and the statute of limitations begins to run:

- In defamation cases, on the date the allegedly defamatory statement is published.
- In false light publicity claims, when the statements are made.

(735 ILCS 5/13-201; *Ciolino*, 2021 IL 126024, ¶ 19.)

Legal Malpractice

Limitations Period

For a legal malpractice claim:

- The statute of limitations is two years.
- The statute of repose is six years.

(735 ILCS 5/13-214.3.)

Accrual Date

The statute of limitations accrues at the time the person filing the action knew or reasonably should have known of the injury for which damages are sought (735 ILCS 5/13-214.3(b)). Recent court decisions have interpreted this as the time when the person incurs actual damages, for example, by paying a new attorney (*Rojo v. Tunick*, 2021 IL App (2d) 200191, ¶ 52; *Zweig v. Miller*, 2020 IL App (1st) 191409, ¶ 38; *Suburban Real Est. Servs., Inc. v. Carlson*, 2022 IL 126935, ¶ 135).

The statute of repose begins to run on the last date the attorney performed work involved in the alleged negligence (735 ILCS 5/13-214.3(d) (as amended, effective January 1, 2022); *Hermansen v. Reibandt*, 2020 IL App (1st) 191735 ¶ 90; see Question 24: Statutes of Repose).

Medical Malpractice

Limitations Period

The statute of limitations for a medical malpractice claim is two years (735 ILCS 5/13-212(a)).

The statute of repose for a medical malpractice claim is:

- Four years if the claimant was over 18 at the time the cause of action accrued.
- If the claimant was under 18 at the time the cause of action accrued, the earlier of:
 - 8 years.
 - The claimant's 22nd birthday.

(735 ILCS 5/13-212(a), (b).)

Accrual Date

The statute of limitations accrues when the claimant both:

- Knew, reasonably should have known, or received notice in writing of the existence of the injury or death for which damages are sought.
- Knew or reasonably should have known that the injury was caused by the defendant's wrongful acts.

(735 ILCS 5/13-212(a); *Mackey v. Sarroca*, 2015 IL App (3d) 130219, ¶ 15.)

The statute of repose begins to run on the date of the act or omission alleged to have been the cause of the injury or death (735 ILCS 5/13-212(a), (b); *Lawler v. Univ. of Chi. Med. Ctr.*, 2017 IL 120745, ¶ 18; Question 24: Statutes of Repose).

Special Rules and Exceptions

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

Illinois has special rules and exceptions that may toll or otherwise affect any of the statutes of limitations described previously. Depending on the cause of action and facts of the case, one or more of the following rules may affect the running of the statute of limitations.

Discovery Rule

Certain limitations periods may be extended by a common law or statutory discovery rule, under which a plaintiff's cause of action does not accrue until they know or should have known through reasonable diligence that an injury:

- Occurred.
- Was wrongfully caused.

(*Hermitage Corp.*, 166 Ill. 2d at 77.)

"Wrongfully caused" means that a party has sufficient information concerning an injury and its cause to move a reasonable person to inquire whether actionable conduct occurred. It does not mean that the party has knowledge of negligent conduct or the existence of a cause of action. (*Palos Cmty. Hosp. v. Humana, Inc.*, 2020 IL App (1st) 190633, ¶ 53, rev's on other grounds, 2021 IL 126008.)

The discovery rule generally applies to the following types of actions:

- Breach of contract.
- Tort.
- Tort arising from contract.

(*Prignano v. Prignano*, 405 Ill. App. 3d 801, 814 (2010).)

The discovery rule extends to situations where the plaintiff suffered latent injuries under what initially seemed to be innocuous circumstances. In these cases, the statute of limitations begins to run when the plaintiff knows or reasonably should know that they have been injured by the wrongful conduct of another. (See *Nakamura v. BRG Sports, LLC*, 2019 IL App (1st) 180397, ¶ 19.)

Fraudulent Concealment

In Illinois, fraudulent concealment operates as a tolling principle, not an independent cause of action (*Doe*, 2016 IL App (1st) 152406, ¶ 80). If the defendant fraudulently conceals a cause of action from the plaintiff, the plaintiff may begin their action at any time within five years after they discover that they have a cause of action (735 ILCS 5/13-215).

In general, fraudulent concealment consists of affirmative acts or representations that are aimed at either:

- Inducing a claimant to delay the filing of a claim.
- Preventing a claimant from discovering a claim.

(*Doe*, 2016 IL App (1st) 152406, ¶ 80.)

To take advantage of the fraudulent concealment rule, a plaintiff must plead and prove:

- The defendant made misrepresentations or performed acts which were:
 - known to be false; and
 - intended to deceive the plaintiff.
- The plaintiff detrimentally relied on the misrepresentations.

However, where there is trust or a confidential relationship between the plaintiff and defendant, silence by the trusted party concerning facts giving rise to a cause of action may amount to fraudulent concealment. (*Doe*, 2016 IL App (1st) 152406, ¶ 80.)

Equitable Tolling

Equitable tolling stops a statute of limitations from running under certain unfair circumstances, for example, when:

- The defendant has actively misled the plaintiff.
- The plaintiff has been prevented from asserting their rights in some extraordinary way.
- The plaintiff has mistakenly asserted their rights in the wrong forum.

(*Clay v. Kuhl*, 189 Ill. 2d 603, 614 (2000).)

Class Action Tolling

The start of a class action in Illinois state court may toll the applicable statute of limitations during the pendency of the class action for all asserted

members of the class who would have been parties had the suit continued as a class action (see *Steinberg v. Chi. Med. Sch.*, 69 Ill. 2d 320, 342 (1977)). However, Illinois courts do not toll the limitations period where the previous class action began in a federal court (see *Portwood v. Ford Motor Co.*, 183 Ill. 2d 459, 465-66 (1998)).

Continuing Tort Doctrine

Where a tort involves a continuing or repeated injury, the limitations period does not begin to run until either:

- The date of the last injury.
- The date the tortious acts cease.

(*Belleville Toyota, Inc. v. Toyota Motor Sales, USA, Inc.*, 199 Ill. 2d 325, 345 (2002).)

Pending or Recently Terminated Government Lawsuit

Whenever the Illinois attorney general brings a lawsuit under the Illinois Antitrust Act or the Consumer Fraud and Deceptive Business Practices Act, the running of the statute of limitations for private lawsuits based on any matter complained of in the attorney general's suit must be suspended while the attorney general's lawsuit is ongoing and for one year after that lawsuit is terminated (740 ILCS 10/7(2); 815 ILCS 505/10a(e)).

Warranty

If an action for breach of warranty not reduced in the parties' agreement is started within four years after the breach, but is terminated in a way that leaves available a remedy by another action for the same breach, that other action may start after the expiration of the initial limitations period, within six months after the first action was terminated. A party may not begin the second action if the termination of the first action resulted from either:

- Voluntary discontinuance.
- Dismissal for failure to prosecute.

(810 ILCS 5/2-725(3).)

Defendant's Absence from the State

The running of the statute of limitations may be tolled for the time after the cause of action accrues that the defendant:

- Resides outside of Illinois.
- Is not subject to jurisdiction in Illinois.

(735 ILCS 5/13-208.)

Minority and Legal Disability

A plaintiff may bring an action within two years after:

- After the plaintiff reaches the age of 18 if they were under 18 when the cause of action accrued.
- A legal disability is removed if they were under a legal disability at the time the cause of action accrued.

(735 ILCS 5/13-211(a).)

If a person is not under a legal disability at the time the action accrues, but comes under a legal disability before the statute of limitations runs, the statute of limitations is tolled until the disability is removed. However, if the cause of action falls under 735 ILCS 5/13-205 or 5/13-206, the statute of limitations may never be tolled longer than ten years from the date of onset of the disability. (735 ILCS 5/13-211(b).)

The legal representative of a decedent who was under a legal disability at the time of death may bring a survival action up to two years following the person's death (*Zayed v. Clark Manor Convalescent Ctr., Inc.*, 2019 IL App (1st) 181552, ¶¶ 28-30).

Statutes of Repose

A statute of repose eliminates the possibility of liability after a defined period of time, regardless of:

- When the action accrued.
- Whether a potential plaintiff knew of the cause of action.

(See *Martin v. Goodrich Corp.*, 2025 IL 130509, ¶ 8; *DeLuna v. Burciaga*, 223 Ill. 2d 49, 61 (2006).)

In Illinois, statutes of repose are applicable to the following causes of action:

- Medical malpractice (735 ILCS 5/13-212; see Question 23: Medical Malpractice).
- Products liability (735 ILCS 5/13-213; see Question 14).
- Acts or omissions in construction practice (735 ILCS 5/13-214).
- Acts or omissions in public accounting (735 ILCS 5/13-214.2).

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- Legal malpractice (735 ILCS 5/13-214.4; see Question 23: Legal Malpractice).

A statute of repose begins to run when a specific event occurs, regardless of whether:

- An action has accrued.
- An injury has resulted.

(See *Martin*, 2025 IL 130509, ¶ 21.)

In certain cases, fraudulent concealment may provide an exception to a statute of repose (735 ILCS 5/13-215; *DeLuna*, 223 Ill. 2d at 74; see Question 24: Fraudulent Concealment).

Savings Statute

The Illinois Savings Statute provides where a plaintiff starts an action but is procedurally prevented from moving forward with their case, the plaintiff may begin a new action within the greater of:

- One year of dismissal.
- The remaining period of limitation.

This rule applies whether or not the time limitation for bringing a later action has expired during the pendency of the first action. (735 ILCS 5/13-217.)

This savings provision applies where:

- Judgment is entered for the plaintiff but reversed on appeal.
- There is a verdict in favor of the plaintiff and on a motion in arrest of judgment, the judgment is entered against the plaintiff.
- A US district court dismisses the action for:
 - lack of jurisdiction; or
 - improper venue.

(735 ILCS 5/13-217.)

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