



**HO-CHUNK NATION CODE (HCC)
TITLE 2 – GOVERNMENT CODE
SECTION 14 – STATUTE OF LIMITATIONS AND
COMMENCEMENT OF CLAIMS ACT**

ENACTED BY LEGISLATURE: JULY 20, 2005

CITE AS: 2 HCC § 14

*This Act supersedes the Statute of Limitations and Commencement of Claims enacted by
Legislative Resolution 4/11/00B.*

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1. **Authority.** Article V, Section 2(a) of the Constitution grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

2. **Purpose.** This Act establishes the maximum time periods in which civil action must be commenced or be forever barred.

3. **Jurisdiction.** The Ho-Chunk Nation Trial Court (“Court”) shall have exclusive jurisdiction over actions brought under the laws of the Nation. Any such action shall be brought not later than 90 calendar days after the date of the cause of action arises, unless otherwise specified herein or by statute.

4. **Civil Action and Time Limitation.** Civil actions may be commenced only within the periods as prescribed here:

a. **Note Payable.** An action to enforce the obligation of a party to pay a note payable at a definite time shall be commenced within tow (2) years after the date or dates stated in the note or, if a due date is accelerated, within two (2) years after the accelerated due date.

b. **Breach of Warranty.** Unless governed by other law regarding claims for indemnity or contribution, an action for conversion of an instrument, for money had and received , or like action based on conversion, an action for breach of warranty or an action to enforce an obligation, duty or right arising under this section and not governed by this section shall be commenced within two (2) years after the cause of action accrues.

Except, that the Nation must bring a cause of action on claims within five (5) years of the date of discovery, and any contract claim within six (6) years of the date of the breach.

c. Contracts.

(1) An action for breach of any contract for sale must be commenced within three (3) years after the cause of action has accrued. By the original agreement the parties, if they are merchants, government, or government agents, may reduce the period of limitation to not less than six (6) months. The period of limitation may not otherwise be varied by agreement.

(2) A cause of action accrues when the breach occurs, regardless of the aggrieved party's lack of knowledge of the breach. A breach or warranty occurs when tender of delivery is made, except that where a warranty explicitly extends to future performance of the goods and discovery of the breach must await the time of such performance, the cause of action accrues when the breach is or should have been discovered.

(3) Where an action commenced within the time limited by paragraph a, above, is so terminated as to leave available a remedy by another action for the same breach such other action may be commenced after the expiration of the time limited and within six (6) months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

d. Torts. An action in tort must be filed in Court within three (3) years from the date of discovery or six (6) years from the date of the incident in which the injury arose.

e. Employment. All employment actions must be filed in the Trial Court within 30 calendar days of the final administrative grievance review decision by the Grievance Review Board.

f. Administrative Grievances.

(1) Administrative grievances shall be filed in the Trial Court within ten (10) calendar days of the final decision or the date such a final decision would have been issue, or be forever barred.

(2) All persons bringing or asserting a claim against the Nation, its agents or agencies or enterprises subject to administrative review or appeal may not amend or modify the complaint or claim to include new issues not previously asserted at the Administrative Review Process.

(3) The Nation's Appellate Court or the Trial Court, serving to review the decisions of administrative agencies, may not review or raise, or allow parties to raise for the first time on appeal, such matters that have not been previously asserted and established in the factual record.

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e. Elections. All election challenges shall be filed in the Trial Court within ten (10) calendar days of the certification of results or all claims arising from the election challenge shall be forever barred.

5. **Severability**. Any part of this statute found to be unconstitutional by the Nation's Courts shall not affect the validity of the remaining parts of this statute.

Legislative History:

4/20/00 Adopted by Legislative Resolution 4/11/00B.
11/24/04 Legislature places Statute of Limitations and Commencement of Claims Act out for Executive Review and Coordination as a Proposed Bill.
5/17/05 Legislature places Draft Statute of Limitations and Commencement of Claims Act (2 HCC § 14) out for 45-Day Public Review.
7/8/05 45-Day Public Review period ends without comments.
7/20/05 Enacted by Legislative Resolution 7/20/05G.