

TITLE STATUTES

(courtesy of Willis Carpenter)

Colorado (and some Federal) curative statutes and statutes of limitation affecting title to real property are listed below. This list is not guaranteed to be all-inclusive. (*See endnotes for important comments*)

<u>Subject</u>	<u>C.R.S.</u> (unless otherwise noted)	<u>Years</u> (unless otherwise noted)
Acknowledgment, defective or missing	38-35-106	10
Adverse Possession (possession alone)	38-41-101, 112	18 + 2
Adverse Possession (with color of title)	38-41-108, 109, 112	7 + 2
Affidavit as to Death, Intestacy, Heirship, etc.	38-35-109, 113	(a) immediate (b) 20
Annexation – Court Challenge	31-12-116(2)(a)(I)	60 days
Assessments, CCIOA	38-33.3-316(5)	6 (unless tolled by §38-33.3-401(3))
Bonds, Special District	31-25-1119 and 32-1-519	15 ⁽¹⁾
Boundary – Recognized	38-44-103, 106, 109	20
Colorado Common Interest Ownership Act (CCIOA) – Building Restrictions	38-33.3-123(2)	1
Contract, Purchase and Sale	38-41-116	10 ⁽¹⁾
Contract, Installment Land – Suite to Void	38-35-126(3)	7
Debt Collection	13-80-103.5(1)(a)	(a) 6 (b) 1 if omitted from payoff statement under 38-35-124.5(3)

<u>Subject</u>	<u>C.R.S.</u> (unless otherwise noted)	<u>Years</u> (unless otherwise noted)
Decedent, Claim Against	15-12-801, 803 ⁽²⁾	(a) not less than 4 mo. (b) 1
Decree, Official (See “Deed, Official”)		
Decree, Quiet Title – Motion for Relief from	Rule 60(b), CRCP	6 mo.
Deed, Beneficiary – Proceeding to Assert Liability	15-15-103(8)	1
Deed, Beneficiary – Creditor’s Claim	15-15-411(1)(a)	1
Deed, Beneficiary – Other Claims	15-15-411(1)(b)	1 or 3
Deed, Beneficiary – Notice of Interest	15-15-407(3)	4 mo.
Deed, Covenants of Warranty, etc.	13-80-101(1)(a)	3
Deed, Official – Decree, etc.	38-41-106, 111, 112	7 + 2
Deed, Recital in – Prima Facie Evidence	38-35-107	20
Deed, Treasurer’s – Holder Not in Possession	38-41-106, 111, 112	7 + 2
Deed, Treasurer’s – Holder in Possession	39-12-101	5
Deed, Treasurer’s – Mining Property	39-12-102	2
Deed, Treasurer’s – Person Under Disability	39-12-104	9 max.
Deed of Trust – enforcement	38-39-207; 13-80-103.5	6 ⁽¹⁾⁽³⁾

<u>Subject</u>	<u>C.R.S.</u> (unless otherwise noted)	<u>Years</u> (unless otherwise noted)
Deed of Trust – error in payoff statement	38-35-124	1
Deed of Trust – extensions	38-39-202(2)	30 ⁽¹⁾
Deed of Trust – unreleased	38-39-201, 202(1)	15 ⁽¹⁾
Distributee, Action to Recover from	15-12-1006	(a) 3 (b) 1
Escheat of Unclaimed Assets	15-12-914	21
Foreclosure – Action to Set Aside	38-39-208	7
Foreclosure – Excess Funds	38-38-111	5
Fraudulent Transfer (except U.S.)	38-8-110	(a) 4 (b) 1
Fraudulent Transfer (U.S.)	28 USC §3306(b)	(a) 6 (b) 2
Heirs, Decree Determining Conclusive	15-12-1306	1
Lease, Mineral – End of Primary Term	38-42-106	6 mo.
Levy, Certificate of	13-56-103	6
Lien, Attachment (except U.S.)	13-56-103	6
Lien, Attachment (U.S.)	28 USC §3102(f)(3)	Until Judgment
Lien, Broker	38-22.5-107	(a) 10 days (b) 6 months
Lien, Child Support	14-10-122(1.5)(b)(e)	12 ⁽⁵⁾
Lien, Execution (except U.S.)	13-56-103	6
Lien, Execution (U.S.)	28 USC §3203(b)	20

<u>Subject</u>	<u>C.R.S.</u> (unless otherwise noted)	<u>Years</u> (unless otherwise noted)
Lien, Judgment (except U.S.)	13-52-102(1)	6 ⁽⁴⁾⁽⁵⁾
Lien, Judgment (U.S.)	28 USC §3201(c)	20
Lien, Judgment – False Reporting	13-52-102(4)(b)	1
Lien, Mechanic's	38-22-109(8)(9)	13 mo.
Lien, Public Improvements	31-25-1119	15 ⁽¹⁾
Lien, Restitution	16-18.5-104(5)	(a) 20 (real property) (b) 12 (UCC)
Lien, Spurious	38-35-203	30 days
Lien, State of Colorado Tax, Inheritance (Estate)	39-23.5-108(5)(b) and (e) (lien for estate with date of death before 1/1/80 formerly codified at 39-23-101 et seq.)	NONE ⁽⁶⁾ , but (a) 15 prior to 1/1/80 (b) 10 after 12/31/79 and before 7/1/80
Lien, Tax – Federal, Estate and Gift	26 USC §6324	10 ⁽⁷⁾
Lien, Tax – Federal	26 USC §6323(g)(3)	10 + 30 days ⁽⁷⁾
Lien, Tax – State of Colorado	39-21-114(3)	6
Limitation, Statutes of – Tolled After Death	15-12-109	1
Limitation, Statutes of – Tolled After Dismissal of Action	13-80-111	90 days
Lis Pendens	Rule 105(f), CRCP and 38-35-110	45 days after judgment or 6 years
Mineral Estate Owner – Compensatory Damages in Surface Development	24-65.5-104(1)(a)(III)	1
Mining Property – Tax Deed	39-12-102	2 (from possession)

<u>Subject</u>	<u>C.R.S.</u> (unless otherwise noted)	<u>Years</u> (unless otherwise noted)
Mortgage (See “Deed of Trust”)		
Name Variations	38-35-116	0 ⁽⁸⁾
Option to Purchase	38-35-111	1 ⁽¹⁾
Payoff Statement – Errors	13-80-103.5	1
Perpetuities	15-11-1102.5	(a) 90 (year 1991 rule) (b) 1000 (year 2001 rule)
Personal Representative, Claims Against	15-12-1005	6 mo.
Power of Attorney (Annexation)	31-12-107(8)	5
Power of Attorney (Guardian)	15-14-105	12 mo.
Probate, Fraud in	15-10-106	5
Probate, Time For	15-12-108	3
Public Trustee, Action Against	38-39-102(6)	6
Quiet Title Action vs. U.S.	28 USC §2409a(g)	12
Redemption (See §§9.10 and 10.7.6)		
Rent, Collection of	13-80-103.5(1)(b)	6
Restriction, Building	38-33.3-123(2) and 38-41-119	1
Restriction, Other Than Building	13-80-101(1)(a)	3
Right of First Refusal – Developer’s Repurchase	30-28-133(4)(a)(II)	20
Road, etc., Vacation of	43-2-303(4)	7
Road, Public User	43-2-201	20
Spurious Lien/Spurious Document	38-35-203	30 days

<u>Subject</u>	<u>C.R.S.</u> (unless otherwise noted)	<u>Years</u> (unless otherwise noted)
Subdivisions – Right of First Refusal to Repurchase School Sites	30-28-133(4)(a)(II)	20
Subdivisions – “Senate Bill 35”	30-28-110(4)	18 mo.
Succession, Renunciation of	15-11-801(2)	9 mo.
Surviving Spouse, Notice of Elective Share	15-11-205	later of 9 mo. after date of death or 6 mo. after will admitted to probate
Tax Sale Certificate (Certificate of Purchase)	39-11-148	15 ⁽⁹⁾
Tax Sale, en masse	39-11-149	7
Taxes, Abatement of	39-10-114(1)	2
Taxes, Unassessed – Collection	39-10-101(2)(b)	(a) 6 (b) 2 (assessor’s error)
Torrens – Claims Against Assurance Fund	38-36-190	6
Torrens – Reopen/Attack Decree	38-36-131(1), 132	90 days

COMMENTS CONCERNING TITLE STATUTES:

- (1) CAUTION: In general, period runs from date last payment due; but, in the case of promissory notes and deeds of trust, consider the effect of (a) a later payment; and (2) 12 USC §1821(d)(14), either of which may extend the date on which the statute of limitations begins to run.
- (2) C.R.S., §15-12-803 provides that statute “is a nonclaim statute that cannot be waived or tolled, and it shall not be considered a statute of limitation.”
- (3) But see Mortgage Invs. Corp. v. Battle Mountain Corp., 70 P.3d 1176 (Colo. 2003).
- (4) Unless judgment is revived and transcript of revived judgment is recorded before the end the initial 6-year period.

- (5) CAUTION: If lien is for child support or maintenance or arrears thereof or child support debt, the lien continues for the life of the judgment.
- (6) If payment of tax is deferred (or, in case of Colorado tax, incurred by reason of payment of Federal Estate Tax), lien continues (or, in case of Colorado tax, is created and remains in effect) until tax is paid or liability therefor becomes unenforceable. 26 USC §6324A and C.R.S., §39-23.5-108(5)(b).
- (7) CAUTION: Statutory period is ten years plus 30 days, but unrecorded agreements with taxpayer may extend lien.
- (8) Unless evidence to the contrary appears (C.R.S., §38-35-116(1)(c))
- (9) CAUTION: Limitation is not applicable where holder is a county, city, city and county or the levying district. See also §39-11-142, C.R.S.