

S.C. 20-YEAR STATUTE OF LIMITATIONS ON CONTRACTS SECURED BY A MORTGAGE.

Most breach of contract claims in S.C. are governed by a three-year statute of limitations. *S.C. Code Ann. § 15-3-530(1)*. A specific exception, however, is found in *S.C. Code Ann §15-3-520(a)* that provides for **a twenty-year statute of limitations in actions on written contracts secured by a mortgage.**

In *National Bank of Anguilla v. Considine*, 2017 WL 3263763 (August 1, 2017), while failing to address the issue of S.C.'s twenty-year statute of limitations, plaintiffs argued an action against them, based upon a mortgage securing a loan agreement and an overdraft agreement, was subject to S.C.'s three-year statute of limitations and consequently not timely made. National Bank disagreed, arguing Anguilla's twelve-year statute of limitations applied to the action, and S.C.'s statute of limitations was inapplicable. Declining to address choice of law issues, the court found National Bank's action was not time-barred; its claim was timely under either the Anguillan twelve-year statute of limitations or S.C.'s twenty-year statute.

The court revisited its ruling pursuant to Considine's motion to reconsider. *Id.*, 2017 WL 5001775 (November 2, 2017). In addition to its argument that National Bank failed to raise the twenty-year statute of limitations in response to the motion to reconsider, Considine argued in order to trigger the twenty-year statute of limitations, the mortgage securing the agreements must be a valid SC mortgage. The court was not persuaded.

The court found it was not precluded from examining the applicability of S.C.'s twenty-year statute of limitations. In fact, the court stated it could not ignore the specific exception to the three-year statute of limitations. The court likewise rejected plaintiffs' argument that a mortgage, as anticipated in §15-3-520(a) must be a valid S.C. mortgage and thus properly recorded. The subject mortgage does not cover S.C. property, but rather Anguillan property. Consequently, the parties had no reason to satisfy S.C.'s recording requirements. Additionally, there was no dispute that the mortgage satisfies Anguilla's formal requirements for a valid mortgage.

Again, without addressing choice of law issues, the court concluded if a S.C. statute of limitations applies, it is properly **the twenty-year statute and National Bank's action is not time barred.**

Here, the court clarified that the applicability of the twenty-year statute of limitations, as set forth in §15-3-520(a) is not limited to cases involving valid S.C. mortgages.