

**ONEIDA INDIAN NATION
GENERAL OBLIGATIONS CODE**

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**ONEIDA INDIAN NATION
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Chapter 1

101 AGREEMENTS REQUIRED TO BE IN WRITING

- a. Every agreement, promise or undertaking is void, unless it or some note or memorandum thereof be in writing, and subscribed by the party to be charged therewith, or by his lawful agent, if such agreement, promise or undertaking:
1. By its terms is not to be performed within one year from the making thereof or the performance of which is not to be completed before the end of a lifetime;
 2. Is a special promise to answer for the debt, default or miscarriage of another person;
 3. Is made in consideration of marriage, except mutual promises to marry;
 5. Is a subsequent or new promise to pay a debt discharged in bankruptcy;
 6. Notwithstanding section 2-201 of the Oneida Indian Nation Uniform Commercial Code, if the goods be sold at public auction, and the auctioneer at the time of the sale, enters in a sale book, a memorandum specifying the nature and price of the property sold, the terms of the sale, the name of the purchaser, and the name of the person on whose account the sale was made, such memorandum is equivalent in effect to a note of the contract or sale, subscribed by the party to be charged therewith;
 7. Is a contract to assign or an assignment, with or without consideration to the promisor, of a life or health or accident insurance policy, or a promise, with or without consideration to the promisor, to name a beneficiary of any such policy. This provision shall not apply to a policy of industrial life or health or accident insurance.
 8. Is a contract to pay compensation for services rendered in negotiating a loan, or in negotiating the purchase, sale, exchange renting or leasing of any real estate or interest therein, or of a business opportunity, business, its good will, inventory, fixtures or an interest therein, including a majority of the voting stock interest in a corporation and including the creating of a partnership interest. "Negotiating" includes procuring an introduction to a party to the transaction or assisting in the negotiation of consummation of the transaction.

This provision shall apply to a contract implied in fact or in law to pay reasonable compensation but shall not apply to a contract to pay compensation to an auctioneer, an attorney at law, or a duly licensed real estate broker or real estate salesman.

b. Notwithstanding paragraph one of subdivision a of this section:

1. An agreement, promise, undertaking or contract, which is valid in other respects and is otherwise enforceable, is not void for lack of a note, memorandum or other writing and is enforceable by way of action or defense provided that such agreement, promise, undertaking or contract is a qualified financial contract as defined in paragraph two of this subdivision and (a) there is, as provided in paragraph three of this subdivision, sufficient evidence to indicate that a contract has been made, or (b) the parties thereto, by means of a prior or subsequent written contract, have agreed to be bound by the terms of such qualified financial contract from the time they reach agreement (by telephone, by exchange of electronic messages, or otherwise) on those terms.
2. For purposes of this subdivision, a "qualified financial contract" means an agreement as to which each party thereto is other than a natural person and which is:
 - (a) for the purchase and sale of foreign exchange, foreign currency, bullion, coin or precious metals on a forward, spot, next-day value or other basis;
 - (b) a contract (other than a contract for the purchase and sale of a commodity for future deliver on, or subject to the rules of, a contract market on board or trade) for the purchase, sale or transfer of any commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or any product or byproduct thereof, with a maturity date more than two days after the date the contract is entered into;
 - (c) for the purchase and sale of currency, or interbank deposits denominated in the United States dollars;
 - (d) for a currency option, currency swap or cross-currency rate swap;
 - (e) for a commodity swap or a commodity option (other than an option contract trade on, or subject to the rules of a contract market or board of trade);

- (f) for a rate swap, basis swap, forward rate transaction, or an interest rate option;
- (g) for a security-index swap or option or a security (or securities) price swap or option;
- (h) an agreement which involves any other similar transaction relating to a price or index (including, without limitation, any transaction or agreement involving any combination of the foregoing, any cap, floor, collar or similar transaction with respect to a rate, commodity price, commodity index, security (or securities) price, security-index or other price index); or
- (i) an option with respect to any other the foregoing.

3. There is sufficient evidence that a contract has been made if:

- (a) There is evidence of electronic communication (including, without limitation, the recording of a telephone call or the tangible written text produced by computer retrieval), admissible in evidence under the laws of the Nation, sufficient to indicate that in such communication a contract was made between the parties;
- (b) A confirmation in writing sufficient to indicate that a contract has been made between the parties and sufficient against the sender is received by the party against whom enforcement is sought no later than the fifth business day after such contract is made (or such other period of time as the parties may agree in writing) and the sender does not receive, on or before the third business day after such receipt (or such other period of time as the parties may agree in writing), written objection to a material term of the confirmation; for purposes of this subparagraph, a confirmation or an objection thereto is received at the time there has been actual receipt by an individual responsible for the transaction or, if earlier, at the time there has been constructive receipt which is the receiving party, as an organization, has exercised reasonable diligence; and a "business day" for the purposes of this subparagraph is a day on which both parties are open and transacting business of the kind involved in that qualified financial contract which is the subject of the confirmation;
- (c) The party against whom enforcement is sought admits in its pleading, testimony or otherwise in court that a contract was made; or
- (d) There is a note, memorandum or other writing sufficient to indicate

that a contract has been made, signed by the party against whom enforcement is sought or by its authorized agent or broker.

For purposes of this paragraph evidence of an electronic communication indicating the making therein of a contract or a confirmation, admission, note, memorandum or writing is not insufficient because it omits or incorrectly states one or more material terms agreed upon, so long as such evidence provides a reasonable basis for concluding that a contract was made.

4. For purposes of this subdivision, the tangible written text produced by telefax, telefacsimile, computer retrieval or other process by which electronic signals are transmitted by telephone or otherwise shall constitute a writing and any symbol executed or adopted by a party with the present intention to authenticate a writing shall constitute a signing. The confirmation and notice of objection referred to in subparagraph (b) of paragraph three of this subdivision may be communicated by means of telex, telefacsimile, computer or other similar process by which electronic signals are transmitted by telephone or otherwise, provided that a party claiming to have communicated in such a manner shall, unless the parties have otherwise agreed in writing, have the burden of establishing actual or constructive receipt by the other party as set forth in subparagraph (b) of paragraph three of this subdivision.

102 REQUIREMENTS FOR USE OF PLAIN LANGUAGE IN CONSUMER TRANSACTIONS

- a. Every written agreement entered into for the lease of space to be occupied for residential purposes, for the lease of personal property to use primarily for personal, family or household purposes or to which a consumer is a party and the money, property or service which is the subject of the transaction is primarily for personal, family or household purposes must be:
 1. Written in a clear and coherent manner using words with common and every day meanings;
 2. Appropriately divided and captioned by its various sections.

Any creditor, seller or lessor who fails to comply with this subdivision shall be liable to a consumer who is a party to a written agreement governed by this subdivision in an amount equal to any actual damages sustained plus a penalty of fifty dollars. The total class action penalty against any such creditor, seller or lessor shall not exceed ten thousand dollars in any class action or series of class actions arising out of the use by a creditor, seller or lessor of an agreement which fails to comply with this subdivision. No action under this subdivision may be brought after both parties to the agreement

have fully performed their obligation under such agreement, nor shall any creditor, seller or lessor who attempts in good faith to comply with this subdivision be liable for such penalties. This subdivision shall not apply to a good faith attempt to describe the constant yield or other method of determining the lease charge and depreciation portions of each base rental payment under a lease of personal property. It also shall not apply to agreements involving amounts in excess of fifty thousand dollars nor prohibit the use of words or phrases or forms of agreement required by state or federal law, rule or regulation or by a governmental instrumentality.

- b. A violation of the provisions of subdivision a of this section shall not render any such agreement void or voidable nor shall it constitute:
 - 1. A defense to any action or proceeding to enforce such agreement; or
 - 2. A defense to any action or proceeding for breach of such agreement.

103 CONVEYANCES AND CONTRACTS CONCERNING REAL PROPERTY REQUIRED TO BE IN WRITING

- 1. An estate or interest in real property, other than a lease for a term not exceeding one year, or any trust or power, over or concerning real property, or in any manner relating thereto, cannot be created, granted, assigned, surrendered or declared, unless by act or operation of law, or by a deed or conveyance in writing, subscribed by the person creating, granting, assigning, surrendering or declaring the same, or by his lawful agent, thereunto authorized by writing. This subdivision does not affect the power of a testator in the disposition of his real property by will; nor prevent any trust from arising or being extinguished by implication or operation of law, nor any declaration of trust from being proved by a writing subscribed by the person declaring the same.
- 2. A contract for the leasing for a longer period than one year, or for the sale, of any real property, or an interest therein, is void unless the contract or some note or memorandum thereof, expressing the consideration, is in writing, subscribed by the party to be charged, or by his lawful agent thereunto authorized by writing.
- 3. A contract to devise real property or establish a trust of real property, or any interest therein or right with reference thereto, is void unless the contract or some note or memorandum thereof is in writing and subscribed by the party to be charged therewith, or by his lawfully authorized agent.
- 4. Nothing contained in this section abridges the powers of the Nation court to compel the specific performance of agreements in cases of part performance.

104 WRITTEN AGREEMENT FOR MODIFICATION OR DISCHARGE

An agreement, promise or undertaking to change or modify, or to discharge in whole or in part, any contract, obligation or lease, or any mortgage or other security interest in personal or real property shall not be invalid because of the absence of consideration, provided that the agreement, promise or undertaking changing, modifying or discharging such contract, obligation, lease, mortgage or security interest, shall be in writing and signed by the party against whom it is sought to enforce the change, modification or discharge or by his agent.

105 WRITTEN PROMISE EXPRESSING PAST CONSIDERATION

A promise in writing and signed by the promisor or by his agent shall not be denied effect as a valid contractual obligation on the ground that consideration for the promise is past or executed, if the consideration is expressed in the writing and is proved to have been given or performed and would be a valid consideration but for the time when it was given or performed.

106 WRITTEN ASSIGNMENT.

An assignment shall not be denied the effect of irrevocably transferring the assignor's rights because of the absence of consideration, if such assignment is in writing and signed by the assignor, or by his agent.

107 WRITTEN IRREVOCABLE OFFER

Except as otherwise provided in section 2-205 of the Oneida Indian Nation Uniform Commercial Code with respect to an offer by a merchant to buy or sell goods, when an offer to enter into a contract is made in a writing signed by the offeror, or by his agent, which states that the offer is irrevocable during a period set forth or until a time fixed, the offer shall not be revocable during such period or until such time because of the absence of consideration for the assurance of irrevocability. When such a writing states that the offer is irrevocable but does not state any period or time of irrevocability, it shall be construed to state that the offer is irrevocable for a reasonable time.

108 EXECUTION BY AGENT IN REAL PROPERTY TRANSACTIONS; WRITTEN AUTHORIZATION REQUIRED

If executed by an agent, any agreement, promise, undertaking, assignment or offer which affects or relates to real property or an interest therein shall be void unless such agent was thereunto authorized in writing.

109 WRITTEN OR PUBLISHED PROMISE OR REWARD

A promise to pay a reward for return of lost or mislaid property is not unenforceable because

of absence of consideration if the promise was made in writing or the promisor caused it to be published.

110 PROMISES AND WARRANTIES IN CONVEYANCES MADE WITHOUT CONSIDERATION

A promise or warranty by the grantor in a deed or conveyance of an estate or interest in real property and acknowledged or proved in the manner prescribed by law to entitle it to be recorded shall not be denied effect because of the absence of consideration, if no consideration was intended.

111 CHOICE OF LAW

1. The parties to any contract, agreement or undertaking, contingent or otherwise, in consideration of, or relating to any obligation arising out of a transaction covering in the aggregate not less than two hundred fifty thousand dollars, including a transaction otherwise covered by subsection one of section 1-105 of the Oneida Indian Nation Uniform Commercial Code, may agree that the law of the Oneida Indian Nation shall govern their rights and duties in whole or in part, whether or not such contract, agreement or undertaking bears a reasonable relation to the Nation. This section shall not apply to any contract, agreement or undertaking (a) for labor or personal services, (b) relating to any transaction for personal, family or household services, or (c) to the extent provided to the contrary in subsection two of section 1-105 of the Uniform Commercial Code.
2. Nothing contained in this section shall be construed to limit or deny the enforcement of any provision respecting choice of law in any other contract, agreement or undertaking.

Chapter 2

MODIFICATION AND DISCHARGE OF OBLIGATIONS

201 DEFINITIONS

In this title, unless otherwise expressly stated, "obligation" does not include a liability in tort; "obligor" does not include a person liable for a tort; "obligee" does not include a person having a right based on a tort. "Several obligors" means obligors severally bound for the same performance.

202 CO-OBLIGOR NOT A PARTY

A judgment against one or more of several obligors, or against one or more of joint, or of joint and several obligors shall not discharge a co-obligor who was not a party to the proceeding wherein the judgment was rendered.

203 CONSIDERATION TO BE CREDITED TO CO-OBLIGOR

The amount or value of any consideration received by the obligee from one or more of several obligors, or from one or more of joint, or of joint and several obligors, in whole or in partial satisfaction of their obligations, shall be credited to the extent of the amount received on the obligations of all co-obligors to whom the obligor or obligors giving the consideration did not stand in the relation of a surety.

204 DISCHARGE OF ONE OBLIGOR, WITH RESERVATIONS

Subject to the provisions of section 1-103, the obligee's release or discharge of one or more of several obligors, or of one or more of joint, or of joint and several obligors shall not discharge co-obligors, against whom the obligee in writing and as part of the same transaction as the release or discharge, expressly reserves his rights; and in the absence of such a reservation of rights shall discharge co-obligors only to the extent provided in section 1-105.

205 DISCHARGE OF ONE OBLIGOR, WITHOUT RESERVATION

1. If an obligee releasing or discharging an obligor without express reservation of rights against a co-obligor, then knows or has reason to know that the obligor released or discharged did not pay so much of the claim as he was bound by his contract or relation with that co-obligor to pay, the obligee's claim against that co-obligor shall be satisfied to the amount which the obligee knew or had reason to know that the released or discharged obligor was bound to such co-

obligor to pay.

2. If an obligee so releasing or discharging an obligor has not then such knowledge or reason to know, the obligee's claim against the co-obligor shall be satisfied to the extent of the lesser of two amounts, namely (a) the amount of the fractional share of the obligor released or discharged, or (b) the amount that such obligor was bound by his contract or relation with the co-obligor to pay.

206 DEATH OF JOINT OBLIGOR

On the death of a joint obligor in contract, his estate shall be bound as such jointly and severally with the surviving obligor or obligors.

207 RELEASE OF PARTNER

A release of a partner from a partnership liability shall release his co-partners from the same liability to the creditor giving the release, but after a partnership has been dissolved, by consent or otherwise, any partner may make a separate composition or compromise with any partnership creditor, and such composition or compromise shall discharge from such liability the partner making it, and him only.

208 RELEASE OR COVENANT NOT TO SUE

- (a) Effect of release of or covenant not to sue tortfeasors. When a release or a covenant not to sue or not to enforce judgment is given to one of two or more persons liable or claimed to be liable in tort for the same injury, or the same wrongful death, it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms expressly so provide, but it reduces the claim of the releasor against the other tortfeasors to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, or in the amount of the released tortfeasor's equitable share of the damages, whichever is the greatest.
- (b) Release of tortfeasor. A release given in good faith by the injured person to one tortfeasor as provided in subdivision (a) relieves him from liability to any other person for contribution.
- (c) Waiver of contribution. A tortfeasor who has obtained his own release from liability shall not be entitled to contribution from any other person.

Chapter 3

REQUIREMENTS FOR EFFECTIVENESS OR ENFORCEABILITY OF MODIFICATION OR DISCHARGE

301 WHEN WRITTEN AGREEMENT OR OTHER INSTRUMENT CANNOT BE CHANGED BY ORAL EXECUTORY AGREEMENT, OR DISCHARGED OR TERMINATED BY ORAL EXECUTORY AGREEMENT OR ORAL CONSENT OR BY ORAL NOTICE

1. A written agreement or other written instrument which contains a provision to the effect that it cannot be changed orally, cannot be changed by an executory agreement unless such executory agreement is in writing and signed by the party against whom enforcement of the change is sought or by his agent.
2. A written agreement or other written instrument which contains a provision to the effect that it cannot be terminated orally, cannot be discharged by an executory agreement unless such executory agreement is in writing and signed by the party against whom enforcement of the discharge is sought, or by his agent, and cannot be terminated by mutual consent unless such termination is effected by an executed accord and satisfaction other than the substitution of one executory contract for another, or is evidenced by a writing signed by the party against whom it is sought to enforce the termination, or by his agent.
3.
 - a. A discharge or partial discharge of obligations under a written agreement or other written instrument is a change of the agreement or instrument for the purpose of subdivision one of this section and is not a discharge or termination for the purpose of subdivision two, unless all executory obligations under the agreement or instrument are discharged or terminated.
 - b. A discharge or termination of all executory obligations under a written agreement or other written instrument is a discharge or termination for the purpose of subdivision two even though accrued obligations remaining unperformed at the date of the discharge or termination are not affected by it.
 - c. If a written agreement or other written instrument containing a provision that it cannot be terminated orally also provides for termination or discharge on notice by one or either party, both subdivision two and subdivision four of this section apply whether or not the agreement or other instrument states specifically that the notice must be in writing.

4. If a written agreement or other written instrument contains a provision for termination or discharge on written notice by one or either party, the requirement that such notice be in writing cannot be waived except by a writing signed by the party against whom enforcement of the waiver is sought or by his agent.
5. If executed by an agent, any agreement, evidence of termination, notice of termination or waiver, required by this section to be in writing, which affects or relates to real property or an interest therein shall be void unless such agent was thereunto authorized in writing.
6. As used in this section the term "agreement" includes promise and undertaking.

302 RELEASE IN WRITING WITHOUT CONSIDERATION OR SEAL

A written instrument which purports to be a total or partial release of all claims, debts, demands or obligations, or a total or partial release of any particular claim, debt, demand or obligation, or a release or discharge in whole or in part of a mortgage, lien, security interest or charge upon personal or real property, shall not be invalid because of the absence of consideration or of a seal.

Chapter 4

ACCORD AND SATISFACTION

401 EXECUTORY ACCORD

1. Executory accord as used in this section means an agreement embodying a promise express or implied to accept at some future time a stipulated performance in satisfaction or discharge in whole or in part of any present claim, cause of action, contract, obligation, or lease, or any mortgage or other security interest in personal or real property, and a promise express or implied to render such performance in satisfaction or in discharge of such claim, cause of action, contract, obligation, lease, mortgage or security interest.
2. An executory accord shall not be denied effect as a defense or as the basis of an action or counterclaim by reason of the fact that the satisfaction or discharge of the claim, cause of action, contract, obligation, lease, mortgage or other security interest which is the subject of the accord was to occur at a time after the making of the accord, provided the promise of the party against whom it is sought to enforce the accord is in writing and signed by such party or by his agent. If executed by an agent, any promise required by this section to be in writing which affects or relates to real property or as interest therein shall be void unless such agent was thereunto authorized in writing.
3. If an executory accord is not performed according to its terms by one party, the other party shall be entitled to assert his rights under the claim, cause of action, contract, obligation, lease, mortgage or other security interest which is the subject of the accord, or to assert his right under the accord.

402 OFFER OF ACCORD FOLLOWED BY TENDER

1. An offer in writing, signed by the offeror or by his agent, to accept a performance therein designated in satisfaction or discharge in whole or in part of any claim, cause of action, contract, obligation, or lease, or any mortgage or other security interest in personal or real property, followed by tender of such performance by the offeree or by his agent before revocation of the offer, shall not be denied effect as a defense or as the basis of an action or counterclaim by reason of the fact that such tender was not accepted by the offeror or by his agent.
2. If executed by an agent, any offer required by this section to be in writing which affects or relates to real property or an interest therein shall be void unless such agent was thereunto authorized in writing.

Chapter 5

DISCHARGE OF SURETY

501 SURETY NOT DISCHARGED BY FAILURE OR REFUSAL BY CREDITOR TO SUE PRINCIPAL DEBTOR

Unless otherwise agreed between the parties in writing, the failure or refusal by a creditor, after a demand by a person bound as surety, to bring an action against a principal debtor upon a contract hereafter made or an obligation hereafter created for the payment of money or the performance of any act shall not discharge such surety.

502 SURETY DISCLOSURE

1. As used in this section:
 - a. "Consumer" means a natural person.
 - b. "Consumer credit transaction" or "transaction" means a loan or sale pursuant to which credit is extended to a consumer, property, services, or money that is the subject of the transaction does not exceed twenty-five thousand dollars, and the credit is extended primarily for personal, family, or household purposes. The term does not include transactions pursuant to a consumer credit account.
 - c. "Consumer credit account" means an account established pursuant to an agreement under which the creditor may permit the consumer to make purchases or obtain loans, for personal, family or household purposes, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device as the agreement may provide, on which the maximum credit limit does not exceed twenty-five thousand dollars.
 - d. "Creditor" means a person, partnership, corporation, association, or other entity who, in the ordinary course of business, regularly enters into or acquires evidences of, consumer credit transactions or extends credit pursuant to consumer credit accounts.
 - e. "Co-signer" means a natural person who (i) in the case of a consumer credit transaction becomes obligated on the transaction as a co-signer, co-maker, guarantor, endorser or surety, but who does not receive the property, services, or money that is the subject of the transaction. The term does not include a seller, holder or lender who becomes obligated to an assignee of such party's rights; or (ii) in the case of a consumer

credit account becomes obligated under the agreement as a co-signer, co-maker, guarantor, endorser or surety with respect either to all purchases and loans, or a specified maximum dollar amount of purchases and loans that will be obtained from time to time pursuant to the agreement whether or not it is contemplated that the co-signer may receive any of the property, service or money to be obtained. The term does not include a seller, holder or lender who becomes obligated to an assignee of such party's rights or a joint applicant for credit who is intended to be primarily liable under the agreement.

2. The creditor shall:
 - a. before a co-signer becomes obligated on a consumer credit transaction, deliver to the co-signer a completed copy of each note, contract, or other writing evidencing the obligation of the consumer or of the co-signer on the transaction, and a written notice that identifies the debt the co-signer of his or her obligation with respect to it;
 - b. before a co-signer becomes obligated on a consumer credit account, deliver to the co-signer a completed copy of the agreement establishing the account, any other writing evidencing the co-signer's obligation and a written notice that identifies the account the co-signer may have to pay and reasonably informs the co-signer of his or her obligation with respect to it.

If the creditor does not comply with the provisions of this section, the co-signer shall not be obligated as a guarantor of payment as described in subdivision one of section 3-416 of the Uniform Commercial Code currently utilized by the State of New York.

3. The notice must be in at least ten point type and may be on a separate sheet, attached to a guarantee or similar instrument, or part of the note, contract, or other writing evidencing the consumer credit transaction, or agreement establishing the consumer credit account. A separately signed written acknowledgment of receipt in substantially the form below is prima facie proof of such receipt in any action by or against the co-signer. A notice substantially similar to the following complies with this section:
 - (a) as to a consumer credit transaction:

NOTICE

You agree to pay the debt identified below although you may not personally receive any property, services, or money. You may be sued for payment although the person who receives the property, services, or money is able to pay. This notice is not the note, contract, or other writing that obligates you to pay the debt. Read that writing for the exact terms of your obligation.

IDENTIFICATION OF DEBT YOU MAY HAVE TO PAY

(Name of Debtor)

(Name of Creditor)

(Date)

\$ _____
(Kind of Debt) (Total of Payments)

I have been given a completed copy of this notice and of each writing that obligates me or the Debtor on this debt.

(Date) (Signed)

(b) as to a consumer credit account:

NOTICE

You agree to pay the debts incurred from time to time on the account identified below although you may not personally receive any property, services, or money. You may be sued for payment although the person opening the account is able to pay. This notice is not the agreement, or other writing that obligates you to pay. Read that writing for the exact terms of you obligations and of your rights to limit or end your obligations.

IDENTIFICATION OF ACCOUNT YOU MAY HAVE TO PAY

(Name of Debtor)

(Name of Creditor)

(Date)

_____ \$ _____
(Kind of Account) (Limit of Liability)

I have been given a completed copy of this notice and of each writing that obligates me or the Debtor on this account.

_____ (Date) _____ (Signed)

Chapter 6

OBLIGATIONS BARRED BY STATUTE OF LIMITATIONS

601 ACKNOWLEDGMENT OR NEW PROMISE MUST BE IN WRITING

An acknowledgment or promise contained in a writing signed by the party to be charged thereby is the only competent evidence of a new or continuing contract whereby to take an action out of the operation of the provisions of limitations of time for commencing actions under the civil practice law and rules other than an action for the recovery of real property. This section does not alter the effect of a payment of principal or interest.

602 AGREEMENTS WAIVING THE STATUTE OF LIMITATION

1. A promise to waive, to extend, or not to plead the statute of limitation applicable to an action arising out of a contract express or implied in fact or in law, if made after the accrual of the cause of action and made, either with or without consideration, in a writing signed by the promisor or his agent is effective, according to its terms, to prevent interposition of the defense of the statute of limitation in an action or proceeding commenced within the time that would be applicable if the cause of action had arisen at the date of the promise, or within such shorter time as may be provided in the promise.
2. A promise to waive, to extend, or not to plead the statute of limitation may be enforced as provided in this section by the person to whom the promise is made or for whose benefit it is expressed to be made or by any person who, after the making of the promise, succeeds or is subrogated to the interest of either of them.
3. A promise to waive, to extend, or not to plead the statute of limitation has no effect to extend the time limited by statute for commencement of an action or proceeding for any greater time or in any other manner than that provided in this section, or unless made as provided in this section.
4. This section
 - a. does not change the requirements or the effect with respect to the statute of limitation, of an acknowledgment or promise to pay, or a payment or part payment of principal or interest, or a stipulation made in an action or proceeding;
 - b. does not affect the power of the court to find that by reason of conduct of the party to be charged it is inequitable to permit him to interpose the defense of the statute of limitation; and

- c. does not apply in any respect to a cause of action to foreclose a mortgage of real property or a mortgage of a lease of real property, or to a cause of action to recover a judgment affecting the title to or the possession, use or enjoyment of real property, or a promise or waiver with respect to any statute of limitation applicable thereto.