§ 10. Time of filing claims and notices of intention to file claims. No judgment shall be granted in favor of any claimant unless such claimant shall have complied with the provisions of this section applicable to his claim.

1. A claim for the appropriation by the state of lands, or any right, title or interest in or to lands shall be filed within three years after the accrual of such claim, or where title is vested by the filing of a description and map in the office of the county clerk or register, then within three years after personal service of a copy of such description and map and notice of filing thereof or if personal service cannot be made within the state, then within three years after the filing of the description and map and the recording of notice of filing thereof.

2. A claim by an executor or administrator of a decedent who left him or her surviving a husband, wife or next of kin, for damages for a wrongful act, neglect or default, on the part of the state by which the decedent's death was caused, shall be filed and served upon the attorney general within ninety days after the appointment of such executor or administrator, unless the claimant shall within such time serve upon the attorney general a written notice of intention to file a claim therefor, in which event the claim shall be filed and served upon the attorney general within two years after the death of the decedent. In any event such claim shall be filed and served upon the attorney general within two years after the death of the decedent.

3. A claim to recover damages for injuries to property or for personal injuries caused by the negligence or unintentional tort of an officer or employee of the state while acting as such officer or employee, shall be filed and served upon the attorney general within ninety days after the accrual of such claim, unless the claimant shall within such time serve upon the attorney general a written notice of intention to file a claim therefor, in which event the claim shall be filed and served upon the attorney general within two years after the accrual of such claim.

3-a. A claim to recover damages for injuries to property or for personal injuries caused by the negligence or unintentional tort of a

member of the organized militia or of an employee in the division of military and naval affairs of the executive department, shall be filed and served upon the attorney general within ninety days after the accrual of such claim, unless the claimant shall within such time serve upon the attorney general a written notice of intention to file a claim therefor, in which event the claim shall be filed and served upon the attorney general within two years after the accrual of such claim.

3-b. A claim to recover damages for injuries to property or for personal injuries caused by the intentional tort of an officer or employee of the state while acting as such officer or employee, or of a member of the organized militia or of an employee in the division of military and naval affairs of the executive department, shall be filed and served upon the attorney general within ninety days after the accrual of such claim, unless the claimant shall within such time serve upon the attorney general a written notice of intention to file a claim therefor, in which event the claim shall be filed and served upon the attorney general within one year after the accrual of such claim.

4. A claim for breach of contract, express or implied, and any other claim not otherwise provided for by this section, over which jurisdiction has been conferred upon the court of claims, shall be filed and served upon the attorney general within six months after the accrual of such claim, unless the claimant shall within such time serve upon the attorney general a written notice of intention to file a claim therefor, in which event the claim shall be filed and served upon the attorney general within two years after such accrual.

5. If the claimant shall be under legal disability, the claim may be presented within two years after such disability is removed.

6. A claimant who fails to file or serve upon the attorney general a claim or to serve upon the attorney general a notice of intention, as provided in the foregoing subdivisions, within the time limited therein for filing or serving upon the attorney general the claim or notice of intention, may, nevertheless, in the discretion of the court, be permitted to file such claim at any time before an action asserting a

like claim against a citizen of the state would be barred under the provisions of article two of the civil practice law and rules. For the purpose of this subdivision, a claim against the state arising under subdivision one of this section shall be deemed an action upon an implied contractual obligation. The application for such permission shall be made upon motion returnable at any regular or special session of the court and may be heard and determined by any judge thereof. The claim proposed to be filed, containing all of the information set forth in section eleven of this act, shall accompany such application. In determining whether to permit the filing of a claim pursuant to this subdivision, the court shall consider, among other factors, whether the delay in filing the claim was excusable; whether the state had notice of the essential facts constituting the claim; whether the state had an opportunity to investigate the circumstances underlying the claim; whether the claim appears to be meritorious; whether the failure to file or serve upon the attorney general a timely claim or to serve upon the attorney general a notice of intention resulted in substantial prejudice to the state; and whether the claimant has any other available remedy.

7. For the purposes of subdivision three of this section, a claim against the state which would be governed by section two hundred fourteen-c of the civil practice law and rules if it were asserted against a citizen of the state shall be deemed to have accrued on the date of discovery of the injury by the claimant or on the date when through the exercise of reasonable diligence the injury should have been discovered by the claimant, whichever is earlier.

8. (a) A claimant who timely serves a notice of intention but who fails to timely serve or file a claim may, nevertheless, apply to the court for permission to treat the notice of intention as a claim. The court shall not grant such application unless: it is made upon motion before an action asserting a like claim against a citizen of the state would be barred under the provisions of article two of the civil practice law and rules; the notice of intention was timely served, and contains facts sufficient to constitute a claim; and the granting of the application would not prejudice the defendant.

(b) An application by a claimant whose time to commence an action

against a citizen of the state would be extended or tolled by reason of any of the provisions contained in article two of the civil practice law and rules shall be considered timely if the application has been made prior to the expiration of the limitation period for filing as extended by reason of the provisions of article two of the civil practice law and rules.

* 9. A claim of any incarcerated individual in the custody of the department of corrections and community supervision for recovery of damages for injury to or loss of personal property may not be filed unless and until the incarcerated individual has exhausted the personal property claims administrative remedy, established for incarcerated individuals by the department. Such claim must be filed and served within one hundred twenty days after the date on which the incarcerated individual has exhausted such remedy.

* NB Expires September 1, 2027

10. Notwithstanding any provision of law to the contrary, this section shall not apply to: (i) any claim to recover damages for physical, psychological, or other injury or condition suffered as a result of conduct which would constitute a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, incest as defined in section 255.27, 255.26 or 255.25 of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law committed against a child less than eighteen years of age; or

(ii) any civil claim or cause of action revived pursuant to section two hundred fourteen-j of the civil practice law and rules.

11. Notwithstanding any provision of law to the contrary, any person who suffers physical, psychological, or other injury or condition while in custody shall have, pursuant to section two hundred eight-a of the civil practice law and rules, the full benefit of the limitations period provided in this section and, in addition, shall have a two-year window following the date of the person's release from that period of custody within which to commence an action based on such injury or condition. For any otherwise time-barred civil claims or causes of action revived

by section two hundred eight-a of the civil practice law and rules, no notice of intention to file a claim shall be required as a condition precedent to the commencement of such action or special proceeding. This exemption shall not apply to any claim that was timely under the otherwise applicable statute of limitations.