The equitable defense of laches is established by proving both an unreasonable delay in asserting a right, and prejudice against the party raising the defense. The general rule is that laches is not available in circumstances to which a clear statute of limitations applies.\textsuperscript{127}

Laches may be of limited use as a defense to the collection of criminal justice debts, due to the theory of \textit{nullum tempus occurit regi}\textsuperscript{128} that equitable limitations do not apply against state governmental entities. The state is not limited in the same manner as private parties because it is enforcing the rights and defending the interests of the collective public.\textsuperscript{129} Some states have abrogated sovereign immunity for claims in which the state is a plaintiff, and this abrogation sometimes is considered an abrogation of \textit{nullum tempus}.\textsuperscript{130}

Municipalities may not enjoy the full protection of the \textit{nullum tempus} doctrine.\textsuperscript{131} In most jurisdictions, municipalities may invoke the doctrine only to the extent that they are carrying out a public rather than a “private or proprietary function.” One court has held that the primary issue in determining whether a political subdivision is engaged in governmental or proprietary activity is “whether it is seeking to vindicate rights of the state or the citizens of the state as a whole, as opposed to only the citizens within its own jurisdiction.”\textsuperscript{132}

**Footnotes**


128 [165] \textit{Nullum tempus occurit regi} means “time doesn’t run against the king.”


**Source:** National Consumer Law Center, Collection Actions [4th ed.], updated at www.nclc.org/library

**Source URL:** https://library.nclc.org/ca/11040803