

2004 SESSION

INTRODUCED

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SENATE BILL NO. 118

Offered January 14, 2004

Prefiled January 7, 2004

A BILL to amend and reenact § 8.01-6 of the Code of Virginia, relating to amending pleadings; notice to agent.

Patron—Watkins

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-6 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-6. Amending pleading; relation back to original pleading.

A misnomer in any pleading may, on the motion of any party, and on affidavit of the right name, be amended by inserting the right name. An amendment changing the party against whom a claim is asserted, whether to correct a misnomer or otherwise, relates back to the date of the original pleading if (i) the claim asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth in the original pleading and (ii) within the limitations period prescribed for commencing the action against the party to be brought in by the amendment, that party *or its agent* received notice of the institution of the action, that ~~he~~ party will not be prejudiced in maintaining a defense on the merits, and ~~he~~ that party knew or should have known that but for a mistake concerning the identity of the proper party, the action would have been brought against ~~him~~ that party.

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