

# VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

## CHAPTER 624

*An Act to amend and reenact § 8.3A-311 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 8.3A-118.1, relating to enforcement and satisfaction of negotiable instruments.*

[H 193]

Approved April 5, 2006

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.3A-311 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 8.3A-118.1 as follows:**

*§ 8.3A-118.1. Statute of limitations on deposit accounts and certificates of deposit.*

*An action to enforce the obligations of a bank to pay all or part of the balance of a deposit account or certificate of deposit (collectively, a deposit) must be commenced within six years after the earlier of the following:*

*(1) If the deposit is a certificate of deposit to which subsection (e) of § 8.3A-118 applies, the date the six-year limitations period begins to run under subsection (e) of § 8.3A-118; or*

*(2) The later of:*

*(A) The maturity date of the deposit, as set forth in the applicable deposit agreement;*

*(B) The due date of the deposit indicated in the bank's last written notice of renewal;*

*(C) The date of the last written communication from the bank recognizing the bank's obligation with respect to the deposit; or*

*(D) The last day of the taxable year for which the owner of the deposit last reported interest income earned on the deposit on a federal or state income tax return.*

**§ 8.3A-311. Accord and satisfaction by use of instrument.**

*(a) If a person against whom a claim is asserted proves that (i) that person in good faith tendered an instrument to the claimant as full satisfaction of the claim, (ii) the amount of the claim was unliquidated or subject to a bona fide dispute, and (iii) the claimant obtained payment of the instrument, the following subsections apply. For purposes of this subsection, a person does not act in good faith when tendering a check in full satisfaction of an obligation under a loan if (i) such check is for less than the amount due under the terms of the loan agreement and (ii) such check is tendered to a person without knowledge of a dispute concerning the loan.*

*(b) Unless subsection (c) applies, the claim is discharged if the person against whom the claim is asserted proves that the instrument or an accompanying written communication contained a conspicuous statement to the effect that the instrument was tendered as full satisfaction of the claim.*

*(c) Subject to subsection (d), a claim is not discharged under subsection (b) if either of the following applies:*

*(1) The claimant, if an organization, proves that (i) within a reasonable time before the tender, the claimant sent a conspicuous statement to the person against whom the claim is asserted that communications concerning disputed debts, including an instrument tendered as full satisfaction of a debt, are to be sent to a designated person, office, or place, and (ii) the instrument or accompanying communication was not received by that designated person, office, or place.*

*(2) The claimant, whether or not an organization, proves that within ninety days after payment of the instrument, the claimant tendered repayment of the amount of the instrument to the person against whom the claim is asserted. This paragraph does not apply if the claimant is an organization that sent a statement complying with paragraph (1) (i).*

*(d) A claim is discharged if the person against whom the claim is asserted proves that within a reasonable time before collection of the instrument was initiated, the claimant, or an agent of the claimant having direct responsibility with respect to the disputed obligation, knew that the instrument was tendered in full satisfaction of the claim.*

**2. That the provisions of § 8.3A-118.1 of the Code of Virginia shall apply to causes of action accruing prior to, and on and after, January 1, 2007; however, any person with a cause of action accruing less than 10 years prior to January 1, 2007, shall have six years from January 1, 2007, or the time period otherwise provided in § 8.3A-118.1, whichever is longer, within which to bring such an action.**

**3. That the provisions of this act adding § 8.3A-118.1 of the Code of Virginia shall become effective on January 1, 2007.**