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HOUSE BILL NO. 755

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact § 8.01-251 of the Code of Virginia, relating to statute of limitations; judgments of the Commonwealth.

Patrons—O'Quinn, Johnson and Kilgore

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-251 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-251. Limitations on enforcement of judgments.

A. No execution shall be issued and no action brought on a judgment, including a judgment in favor of the Commonwealth and a judgment rendered in another state or country, after 20 years from the date of such judgment or domestication of such judgment, unless the period is extended as provided in this section.

B. The limitation prescribed in subsection A may be extended on motion of the judgment creditor or his assignee with notice to the judgment debtor, and an order of the circuit court of the jurisdiction in which the judgment was entered to show cause why the period for issuance of execution or bringing of an action should not be extended. Any such motion shall be filed within the 20-year period from the date of the original judgment or from the date of the latest extension thereof. If upon the hearing of the motion the court decides that there is no good cause shown for not extending the period of limitation, the order shall so state and the period of limitation mentioned in subsection A shall be extended for an additional 20 years from the date of filing of the motion to extend. Additional extensions may be granted upon the same procedure, subject in each case to the recording provisions prescribed in § 8.01-458. This extension procedure is subject to the exception that if the action is against a personal representative of a decedent, the motion shall be within two years from the date of his qualification, the extension may be for only two years from the time of the filing of the motion, and there may be only one such extension.

C. No suit shall be brought to enforce the lien of any judgment, including judgments in favor of the Commonwealth, upon which the right to issue an execution or bring an action is barred by other subsections of this section, nor shall any suit be brought to enforce the lien of any judgment against the lands which have been conveyed by the judgment debtor to a grantee for value, unless the same be brought within 10 years from the due recordation of the deed from such judgment debtor to such grantee and unless a notice of lis pendens shall have been recorded in the manner provided by § 8.01-268 before the expiration of such 10-year period.

D. In computing the time, any time during which the right to sue out execution on the judgment is suspended by the terms thereof, or by legal process, shall be omitted. Sections 8.01-230 et seq., 8.01-247 and 8.01-256 shall apply to the right to bring such action in like manner as to any right.

E. The provisions of this section apply to judgments obtained after June 29, 1948, and to judgments obtained prior to such date which are not then barred by the statute of limitations, but nothing herein shall have the effect of reducing the time for enforcement of any judgment the limitation upon which has been extended prior to such date by compliance with the provisions of law theretofore in effect.

F. This section shall not be construed to impair the right of subrogation to which any person may become entitled while the lien is in force, provided he institutes proceedings to enforce such right within five years after the same accrued, nor shall the lien of a judgment be impaired by the recovery of another judgment thereon, or by a forthcoming bond taken on an execution thereon, such bond having the force of a judgment.

G. Limitations on enforcement of judgments entered in the general district courts shall be governed by § 16.1-94.1, unless an abstract of such judgment is docketed in the judgment book of a circuit court. Upon the docketing of such judgment, the limitation for the enforcement of a district court judgment is the same as for a judgment of the circuit court.

H. The provisions of this section shall not apply to judgments in favor of the Commonwealth.

2. That the provisions of this Act shall apply to all judgments in favor of the Commonwealth that have not expired as of July 1, 2012.

INTRODUCED

HB755