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HOUSE BILL NO. 1832

Offered January 11, 2017

Prefiled January 10, 2017

A *BILL to amend and reenact §§ 8.3A-118 and 8.3A-118.1 of the Code of Virginia, relating to negotiable instruments; statute of limitations; certificates of deposit.*

Patron—Kilgore

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.3A-118 and 8.3A-118.1 of the Code of Virginia are amended and reenacted as follows:
§ 8.3A-118. Statute of limitations.

(a) Except as provided in subsection (e), an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date.

(b) Except as provided in subsection (d) or (e), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within six years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of ten years.

(c) Except as provided in subsection (d), an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within three years after dishonor of the draft or ten years after the date of the draft, whichever period expires first.

(d) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

(e) An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within six years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the six-year period begins when a demand for payment is in effect and the due date has passed.

(f) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced (i) within six years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or (ii) within six years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(g) Unless governed by other law regarding claims for indemnity or contribution, an action (i) for conversion of an instrument, for money had and received, or like action based on conversion, (ii) for breach of warranty, or (iii) to enforce an obligation, duty, or right arising under this title and not governed by this section must be commenced within three years after the cause of action accrues.

(h) Notwithstanding the provisions of § 8.01-246, this section shall apply to negotiable and non-negotiable notes and certificates of deposit.

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

A. 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 due date of the deposit indicated in the bank's last written notice of renewal;

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

(C) The last day of the taxable year for which the owner of the deposit or the bank last reported interest income earned on the deposit for federal or state income tax purposes.

B. This section shall apply to negotiable and non-negotiable certificates of deposit.

INTRODUCED

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