

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 8.01-6 of the Code of Virginia and to amend the Code of Virginia by*
3 *adding a section numbered 8.01-6.1, relating to amendment of pleadings; relation back.*

4 [H 1418]

5 Approved

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

7 **1. That § 8.01-6 of the Code of Virginia is amended and reenacted and that the Code of Virginia**
8 **is amended by adding a section numbered 8.01-6.1 as follows:**

9 § 8.01-6. *Amending pleading; relation back to original pleading.*

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

19 § 8.01-6.1. *Amendment of pleading changing or adding a claim or defense; relation back.*

20 *Subject to any other applicable provisions of law, an amendment of a pleading changing or adding a*
21 *claim or defense against a party relates back to the date of the original pleadings for purposes of the*
22 *statute of limitations if the court finds (i) the claim or defense asserted in the amended pleading arose*
23 *out of the conduct, transaction or occurrence set forth in the original pleading, (ii) the amending party*
24 *was reasonably diligent in asserting the amended claim or defense and (iii) parties opposing the*
25 *amendment will not be substantially prejudiced in litigating on the merits as a result of the timing of the*
26 *amendment. In connection with such an amendment, the trial court may grant a continuance or other*
27 *relief to protect the parties. This section shall not apply to eminent domain or mechanics' lien claims or*
28 *defenses.*

ENROLLED

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