

LEGISLATIVE BILL 151

Approved by the Governor April 16, 2008

Introduced by Gay, 14.

FOR AN ACT relating to banks and banking; to amend section 3-118, Uniform Commercial Code, Reissue Revised Statutes of Nebraska; to provide a statute of limitations for certificate of deposit obligations as prescribed; to provide an operative date; to repeal the original section; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) For purposes of this section:

(a) Account agreement means one or more written instruments that establish when a certificate of deposit is payable;

(b) Certificate of deposit means a deposit or share account at a depository institution that:

(i) Is payable by the depository institution at the expiration of a specified time; and

(ii) May be transferable or nontransferable, negotiable or nonnegotiable, and renewable or nonrenewable;

(c) Depository institution means a state-chartered or federally chartered financial institution located in this state that is authorized to maintain certificates of deposit; and

(d) Maturity date means the time specified in an account agreement when a certificate of deposit is first payable, without taking into account any agreement regarding renewals.

(2) Subject to subsection (3) of this section, an action to enforce the obligation of a depository institution to pay all or part of the balance of a certificate of deposit shall be commenced by the earlier of:

(a) The time that an action to enforce an obligation under subsection (e) of section 3-118, Uniform Commercial Code, must be commenced if the certificate of deposit is subject to such section; or

(b) Seven years after the later of:

(i) The maturity date of the certificate of deposit;

(ii) The due date of the certificate of deposit indicated in the depository institution's last written notice of renewal of the certificate of deposit, if any;

(iii) The date of the last written communication from the depository institution recognizing the depository institution's obligation with respect to the certificate of deposit; or

(iv) The last day of the taxable year for which a person identified in the certificate of deposit last reported interest income earned on the certificate of deposit on a federal or state income tax return.

(3) Notwithstanding subsection (2) of this section, an action to enforce the obligation of a depository institution to pay all or part of the balance of an automatically renewing certificate of deposit in existence on the operative date of this act shall be commenced by the later of:

(a) Seven years after the later of:

(i) The maturity date of the certificate of deposit;

(ii) The due date of the certificate of deposit indicated in the depository institution's last written notice of renewal of the certificate of deposit, if any;

(iii) The date of the last written communication from the depository institution recognizing the depository institution's obligation to pay the certificate of deposit; or

(iv) The last day of the taxable year for which a person identified in the certificate of deposit last reported interest income earned on the certificate of deposit on a federal or state income tax return; or

(b) One year after the operative date of this act.

(4) This section applies to all certificates of deposit that are in existence on or after the operative date of this act.

Sec. 2. Section 3-118, Uniform Commercial Code, Reissue Revised Statutes of Nebraska, is amended to read:

3-118 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) Subject to the provisions of section 1 of this act, an ~~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 article and not governed by this section must be commenced within three years after the cause of action accrues.

Sec. 3. This act becomes operative on July 1, 2008.

Sec. 4. Original section 3-118, Uniform Commercial Code, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 5. Since an emergency exists, this act takes effect when passed and approved according to law.