

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 151

FINAL READING

Introduced by Gay, 14.

Read first time January 8, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to banks and banking; to amend section
2 3-118, Uniform Commercial Code, Reissue Revised Statutes
3 of Nebraska; to provide a statute of limitations for
4 certificate of deposit obligations as prescribed; to
5 provide an operative date; to repeal the original
6 section; and to declare an emergency.

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

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

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

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

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

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

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

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

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

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

25 (b) Seven years after the later of:

- 1 (i) The maturity date of the certificate of deposit;
- 2 (ii) The due date of the certificate of deposit indicated
- 3 in the depository institution's last written notice of renewal of
- 4 the certificate of deposit, if any;
- 5 (iii) The date of the last written communication from
- 6 the depository institution recognizing the depository institution's
- 7 obligation with respect to the certificate of deposit; or
- 8 (iv) The last day of the taxable year for which a person
- 9 identified in the certificate of deposit last reported interest
- 10 income earned on the certificate of deposit on a federal or state
- 11 income tax return.

12 (3) Notwithstanding subsection (2) of this section, an

13 action to enforce the obligation of a depository institution to pay

14 all or part of the balance of an automatically renewing certificate

15 of deposit in existence on the operative date of this act shall be

16 commenced by the later of:

- 17 (a) Seven years after the later of:
- 18 (i) The maturity date of the certificate of deposit;
- 19 (ii) The due date of the certificate of deposit indicated
- 20 in the depository institution's last written notice of renewal of
- 21 the certificate of deposit, if any;
- 22 (iii) The date of the last written communication from
- 23 the depository institution recognizing the depository institution's
- 24 obligation to pay the certificate of deposit; or
- 25 (iv) The last day of the taxable year for which a person

1 identified in the certificate of deposit last reported interest
2 income earned on the certificate of deposit on a federal or state
3 income tax return; or

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

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

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

9 3-118 Statute of limitations.

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

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

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

1 expires first.

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

7 (e) Subject to the provisions of section 1 of this act,
8 an ~~An~~ action to enforce the obligation of a party to a certificate
9 of deposit to pay the instrument must be commenced within six
10 years after demand for payment is made to the maker, but if the
11 instrument states a due date and the maker is not required to pay
12 before that date, the six-year period begins when a demand for
13 payment is in effect and the due date has passed.

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

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

1 the cause of action accrues.

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

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

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