

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 151

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 3-118,
2 Uniform Commercial Code, Reissue Revised Statutes of
3 Nebraska; to provide a statute of limitations for
4 certificate of deposit obligations as prescribed; to provide
5 an operative date; to repeal the original section; and to
6 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 instruments
3 that establish when a certificate of deposit is payable;

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

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

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

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

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

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

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

24 (b) Six years after the later of:

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

26 (ii) The due date of the certificate of deposit indicated
27 in the depository institution's last written notice of renewal of the

1 certificate of deposit, if any;

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

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

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

14 (a) Six years after the later of:

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

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

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

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

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

27 (4) This section applies to all certificates of deposit

1 that are in existence on or after the operative date of this act.

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

4 3-118. (a) Except as provided in subsection (e), an action
5 to enforce the obligation of a party to pay a note payable at a
6 definite time must be commenced within six years after the due date or
7 dates stated in the note or, if a due date is accelerated, within six
8 years after the accelerated due date.

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

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

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

25 (e) Subject to the provisions of section 1 of this act, an
26 ~~An~~ action to enforce the obligation of a party to a certificate of
27 deposit to pay the instrument must be commenced within six years

1 after demand for payment is made to the maker, but if the instrument
2 states a due date and the maker is not required to pay before that
3 date, the six-year period begins when a demand for payment is in
4 effect and the due date has passed.

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

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

18 Sec. 3. This act becomes operative on July 1, 2007.

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

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