

1 **Senate Bill No. 596**

2 (By Senator Tucker)

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4 [Introduced February 14, 2014; referred to the Committee on  
5 Banking and Insurance; and then to the Committee on the  
6 Judiciary.]  
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11 A BILL to amend and reenact §46-3-118 of the Code of West Virginia,  
12 1931, as amended, relating to demand notes; and modifying the  
13 statute of limitations on the collection of demand notes.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §46-3-118 of the Code of West Virginia, 1931, as amended,  
16 be amended and reenacted to read as follows:

17 **ARTICLE 3. NEGOTIABLE INSTRUMENTS.**

18 **§46-3-118. Statute of limitations.**

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

1 (b) Except as provided in subsection (d) or (e) of this  
2 section, if demand for payment is made to the maker of a note  
3 payable on demand, an action to enforce the obligation of a party  
4 to pay the note must be commenced within six years after the  
5 demand. If no demand for payment is made to the maker, an action  
6 to enforce the note is barred ~~if neither principal nor interest on~~  
7 ~~the note has been paid for a continuous period of ten years.~~ after  
8 the expiration of fifteen years from the date of the demand note.

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

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

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

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

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

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(NOTE: The purpose of this bill is to modify the statute of limitations on the collection of demand notes.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)