

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 8.01-232 of the Code of Virginia, relating to effect of promises not to*  
3 *plead statute of limitations.*

4  
5 Approved

[H 409]

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

7 **1. That § 8.01-232 of the Code of Virginia is amended and reenacted as follows:**

8 **§ 8.01-232. Effect of promises not to plead statute of limitations.**

9 A. Whenever the failure to enforce a promise, written or unwritten, not to plead the statute of  
10 limitations would operate as a fraud on the promisee, the promisor shall be estopped to plead the statute.  
11 In all other cases, an unwritten promise not to plead the statute shall be void, and a written promise not  
12 to plead such statute shall be valid *and enforceable to prevent assertion of the defense of the statute*  
13 *only* when (i) ~~it the written promise~~ is made to avoid or defer litigation pending settlement of any ~~case~~  
14 *cause of action that has accrued in favor of the promisee against the promisor*, (ii) ~~it is not made~~  
15 ~~contemporaneously with any other contract~~ *the written promise is signed by the promisor or his agent*,  
16 and (iii) ~~it is made for an additional term not longer than the promisee commences an action asserting~~  
17 *such cause of action within the earlier of (a) the applicable limitations period running from the date the*  
18 *written promise is made or (b) any shorter time as may be provided in the written promise*. No  
19 provision of this subsection shall operate contrary to subsections B and C.

20 B. No acknowledgment or promise by any personal representative of a decedent shall charge the  
21 estate of the decedent, revive a cause of action otherwise barred, or relieve the personal representative of  
22 his duty to defend under § 64.2-1415 in any case in which but for such acknowledgment or promise, the  
23 decedent's estate could have been protected under a statute of limitations.

24 C. No acknowledgment or promise by one of two or more joint contractors shall charge any of such  
25 contractors in any case in which but for such acknowledgment another contractor would have been  
26 protected under a statute of limitations.

27 D. Subsections A and C shall not apply to, limit, or prohibit written promises to waive or not to  
28 plead the statute of limitations that are made in, or contemporaneously with, subcontracts of any tier that  
29 are related to contracts for construction, construction management, design-build, architecture, or  
30 engineering under Chapter 43 (§ 2.2-4300 et seq.) or 43.1 (§ 2.2-4378 et seq.) of Title 2.2; under the  
31 policies and procedures adopted by any county, city, or town or school board; under Title 23.1; or under  
32 authorizing provisions, policies, or procedures for procurement of such contracts by any public body  
33 exempted from the foregoing; however, such waiver or promise not to plead applies only to demands,  
34 claims, or actions asserted under such contracts by a public body. As used in this subsection,  
35 "subcontract" includes any contract or purchase order to supply labor, equipment, materials, or services  
36 to an entity awarded a contract with a public body or to any lower-tier entity performing work provided  
37 for in such a contract.

38 **2. That the provisions of this act shall apply to any written promise not to plead the statute of**  
39 **limitations made on or after July 1, 2022.**

ENROLLED

HB409ER