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HOUSE BILL NO. 573

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary
on February 28, 2022)

(Patron Prior to Substitute—Delegate Clark)

A BILL to amend and reenact §§ 8.01-246 and 8.01-249 of the Code of Virginia, relating to statute of limitations; actions on a contract for services provided by a licensed health care provider.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-246 and 8.01-249 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-246. Personal actions based on contracts.

A. Subject to the provisions of § 8.01-243 regarding injuries to person and property and of § 8.01-245 regarding the application of limitations to fiduciaries, and their bonds, actions founded upon a contract, other than actions on a judgment or decree, shall be brought within the following number of years next after the cause of action shall have accrued:

1. In actions or upon a recognizance, except recognizance of bail in a civil suit, within 10 years; and in actions or motions upon a recognizance of bail in a civil suit, within three years, omitting from the computation of such three years such time as the right to sue out such execution shall have been suspended by injunction, supersedeas or other process;

2. In actions on any contract that is not otherwise specified and that is in writing and signed by the party to be charged thereby, or by his agent, within five years whether such writing be under seal or not;

3. In actions by a partner against another for settlement of the partnership account or in actions upon accounts concerning the trade of merchandise between merchant and merchant, their factors, or servants, within five years from the cessation of the dealings in which they are interested together;

4. In actions upon (i) any contract that is not otherwise specified and that is in writing and not signed by the party to be charged, or by his agent, or (ii) any unwritten contract, express or implied, within three years;

5. In actions, including those brought by the Commonwealth, upon any contract under subdivision 2 or 4 for health care services that were provided by a licensed health care provider, within three years after the cause of action accrues pursuant to subdivision 10 of § 8.01-249.

~~Provided that as to B.~~ In the case of any action to which § 8.2-725 of the Uniform Commercial Code is applicable, that section shall be controlling except that in products liability actions for injury to person and for injury to property, other than the property subject to contract, the limitation prescribed in § 8.01-243 shall apply.

§ 8.01-249. When cause of action shall be deemed to accrue in certain personal actions.

The cause of action in the actions herein listed shall be deemed to accrue as follows:

1. In actions for fraud or mistake, in actions for violations of the Consumer Protection Act (§ 59.1-196 et seq.) based upon any misrepresentation, deception, or fraud, and in actions for rescission of contract for undue influence, when such fraud, mistake, misrepresentation, deception, or undue influence is discovered or by the exercise of due diligence reasonably should have been discovered;

2. In actions or other proceedings for money on deposit with a bank or any person or corporation doing a banking business, when a request in writing be made therefor by check, order, or otherwise;

3. In actions for malicious prosecution or abuse of process, when the relevant criminal or civil action is terminated;

4. In actions for injury to the person resulting from exposure to asbestos or products containing asbestos, when a diagnosis of asbestosis, interstitial fibrosis, mesothelioma, or other disabling asbestos-related injury or disease is first communicated to the person or his agent by a physician. However, no such action may be brought more than two years after the death of such person. The diagnosis of a nonmalignant asbestos-related injury or disease shall not accrue an action based upon the subsequent diagnosis of a malignant asbestos-related injury or disease, and such subsequent diagnosis shall constitute a separate injury that shall accrue an action when such diagnosis is first communicated to the person or his agent by a physician;

4a. In actions for injury to the person resulting from the exposure to a substance or a combination of substances or the use of a product, when such injury is latent, other than (i) those asbestos-related injuries specified in subdivision 4 and (ii) claims against health care providers as defined in § 8.01-581.1, when the person knew or should have known of the injury and its causal connection to an injury-causing substance or product. However, no such action may be brought more than two years after the death of such person. For purposes of this subdivision, "latent" refers to injuries that remain dormant or do not develop and, therefore, are undiagnosable during the period of limitations set forth in

60 subsection A of § 8.01-243;

61 5. In actions for contribution or for indemnification, when the contributee or the indemnitee has paid
62 or discharged the obligation. A third-party claim permitted by subsection A of § 8.01-281 and the Rules
63 of Court may be asserted before such cause of action is deemed to accrue hereunder;

64 6. In actions for injury to the person, whatever the theory of recovery, resulting from sexual abuse
65 occurring during the infancy or incapacity of the person, upon the later of the removal of the disability
66 of infancy or incapacity as provided in § 8.01-229 or when the fact of the injury and its causal
67 connection to the sexual abuse is first communicated to the person by a licensed physician, psychologist,
68 or clinical psychologist. As used in this subdivision, "sexual abuse" means sexual abuse as defined in
69 subdivision 6 of § 18.2-67.10 and acts constituting rape, sodomy, object sexual penetration or sexual
70 battery as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

71 7. In products liability actions against parties other than health care providers as defined in
72 § 8.01-581.1 for injury to the person resulting from or arising as a result of the implantation of any
73 prosthetic device for breast augmentation or reconstruction, when the fact of the injury and its causal
74 connection to the implantation is first communicated to the person by a physician;

75 8. In actions on an open account, from the later of the last payment or last charge for goods or
76 services rendered on the account;

77 9. In products liability actions against parties other than health care providers as defined in
78 § 8.01-581.1 for injury to the person resulting from or arising as a result of the implantation of any
79 medical device, when the person knew or should have known of the injury and its causal connection to
80 the device;

81 *10. In actions on a contract between a natural person and a licensed health care provider for*
82 *services by such provider, 30 days after the later of (i) issuance of the initial invoice or the due date*
83 *stated in such invoice to the patient or person legally responsible for payment or (ii) if the patient*
84 *voluntarily enters into a payment plan with the provider, 30 days after the default date contained in*
85 *such payment plan, provided that any lien perfected in writing pursuant to § 8.01-66.5 shall not toll*
86 *such statute of limitations during the pendency of any action for any injuries relating to such services.*

87 **2. That the provisions of this act apply only to contracts entered into on or after July 1, 2022.**