

SPONSOR: Rep. Walker & Rep. M. Smith & Sen. Blevins & Sen. Henry & Sen. Townsend
Reps. Paradee, Potter

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 363

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO CONTRACTUAL LIMITATION PERIODS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 8106, Title 10 of the Delaware Code by adding a new subsection, § 8106(c), shown by underlining as follows:

(c) Notwithstanding anything to the contrary in this chapter (other than Section 8106(b)) or in § 2-725 of Title 6, an action based on a written contract, agreement or undertaking involving at least $100,000 may be brought within a period specified in such written contract, agreement or undertaking provided it is brought prior to the expiration of 20 years from the accruing of the cause of such action.

Section 2. Section 1 shall be effective on August 1, 2014.

SYNOPSIS

Delaware common law currently permits contracting parties to effectively opt into a 20 year limitations period by entering into a contract under seal. Absent compliance with the requirements for a contract under seal, the statute of limitations for breach of contract claims is generally three years or, in the case of contracts governed by Article 2 of the Delaware UCC, four years. Subsection (c) gives clear statutory authorization to the parties' freedom to contract beyond the three or four year statutory period without resorting to the use of a sealed instrument, as long as the contract involves at least $100,000 and is in writing. Examples of a "period" that may be specified in a written contract, agreement or undertaking would include, without limitation, (i) a specific period of time, (ii) a period of time defined by reference to the occurrence of some other event or action, another document or agreement or another statutory period and (iii) an indefinite period of time.

HD : KL : TEH
1031470398
Released: 05/28/2014 03:22 PM