

Senator Eklund
Chair, Senate Judiciary Committee
1 Capitol Square, 1st Floor
Columbus, Ohio 43215
Delivered via email: eklund@ohiosenate.gov



February 10, 2020

The Honorable Senator Eklund,

The OBL is the foremost trade association for Ohio's banking industry – and is Ohio's only organization focused on meeting the needs of *all banks and thrifts* in the Buckeye State. The non-profit association is comprised of 180 FDIC-insured financial institutions including commercial banks, savings banks, and savings and loan associations ranging in size from just over \$13 million in assets to over \$2.5 trillion. For more than 125 years, the OBL has been the voice of the Ohio banking industry, fostering a cooperation that has made it one of the strongest and most reputable financial trade associations in the country.

I am writing to you in support of HB 251. As you aware, almost everything that a bank does whether it is opening account or loaning money has some type of contract behind it. Like other businesses that you have heard from, OBL members understand and appreciate the goal of limiting the tail on liability for corporations as a way of improving Ohio's business climate. We also can appreciate the potential benefit of ensuring that individuals are not venue shopping to Ohio based on more favorable laws. However, unlike many other industries, most of the contracts our banks enter into are assets to the bank, not liabilities. In its simplest form, a loan is a promise to repay a debt. Those promises to repay and, more importantly in this discussion, the ability to collect in the future, make up the majority of our business. Currently, Ohio's banks operate under a statute of limitations shorter than the current eight years in many aspects of their business. For example, banks have a record retention period of six years, ORC 1109.69, with a corresponding six-year statute of limitation for any actions related to those records.

Further, ORC Section 2305.03 states that, unless a different limitation period is specified elsewhere by statute, the periods detailed in the Sections 2305.04 through 2305.22 will control. This includes two of the sections modified here, ORC 2305.06 and 2305.07. However, in current law, those two specific statutes only reference ORC 126.301 and 1302.98 as exceptions to what would become a six-year limitation period. An important change clarifies that, under the UCC, ORC 1303.16, the limitation period for commercial paper, such as promissory notes, is six years and will continue to be governed by that separate code section. Additionally, the new language also explicitly states that an action to recover title to or possession of real property will continue to be controlled by ORC 2305.04.

As previously mentioned, several of the limitation periods for banks set forth in other parts of the code are six years. Thus, the change would create some uniformity for Ohio's banks and, like other businesses, limiting potential liability on the other contracts banks enter into every day would be beneficial. Looking to other states, the average nationwide is six years for written contracts and just under five years for oral contracts. Three of our contiguous states, Indiana, Kentucky and West Virginia,

are at 10 years. Michigan is at six years and Pennsylvania is at four years. A change to six years would put us ahead of or level with the majority of our contiguous states and put us in line with the average nationwide. Thus, we believe the change proposed is reasonable and appreciate the hard work that the Sponsors of the legislation, Representatives Hillyer and Lang, have put into the bill as well as the work of other proponents and interested parties.

For these reasons, we urge you to support House Bill 251. Please feel free to contact me if you have any questions regarding our position at dboyd@ohiobankersleague.com or (614) 340-7608.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Boyd". The signature is stylized with a large, sweeping initial "D" and a cursive "Boyd".

Don Boyd
State Government Relations Director
& Legislative Counsel