

A08318 Summary:

BILL NO A08318
SAME AS SAME AS
SPONSOR Carroll
COSPNSR Dinowitz
MLTSPNSR

Amd §213, CPLR

Requires that certain crimes related to fraudulent practices in respect to stocks, bonds and other securities and conducting business in the state be commenced within six years.

A08318 Actions:

BILL NO A08318

06/13/2019 referred to judiciary
06/17/2019 reported referred to codes
06/18/2019 reported referred to rules
06/19/2019 reported
06/19/2019 rules report cal.614
06/19/2019 ordered to third reading rules cal.614
06/20/2019 substituted by s6536
S06536 AMEND= GIANARIS
06/15/2019 REFERRED TO RULES
06/19/2019 ORDERED TO THIRD READING CAL.1737
06/19/2019 PASSED SENATE
06/19/2019 DELIVERED TO ASSEMBLY
06/19/2019 referred to codes
06/20/2019 substituted for a8318
06/20/2019 ordered to third reading rules cal.614
06/20/2019 passed assembly
06/20/2019 returned to senate
08/19/2019 DELIVERED TO GOVERNOR

A08318 Committee Votes:

JUDICIARY Chair:Dinowitz

DATE: 06/17/2019 AYE/NAY: 18/0 Action: Favorable refer to committee Codes

Dinowitz	Aye	Palumbo	Aye
Titus	Excused	Montesano	Aye
Lavine	Aye	Goodeell	Aye
Zebrowski	Excused	Norris	Aye
Weprin	Aye	Walsh	Aye
Braunstein	Aye	Byrnes	Aye
Simotas	Aye		
Quart	Aye		
Buchwald	Aye		
Steck	Aye		
Seawright	Aye		
Joyner	Excused		
Abinanti	Aye		
Wright	Aye		
Wallace	Aye		

CODES Chair:Lentol

DATE: 06/18/2019 AYE/NAY: 22/0 Action: Favorable refer to committee Rules

Lentol	Aye	Ra	Aye
Schimminger	Aye	Giglio	Aye
Pretlow	Aye	Montesano	Aye
Cook	Aye	Morinello	Aye
Cymbrowitz	Aye	Palumbo	Aye
O'Donnell	Aye	Garbarino	Aye
Lavine	Aye		
Perry	Aye		
Zebrowski	Aye		
Abinanti	Aye		
Weprin	Aye		
Mosley	Aye		
Hevesi	Aye		
Fahy	Aye		
Seawright	Aye		
Rosenthal	Aye		

RULES Chair:Gottfried

DATE: 06/19/2019 AYE/NAY: 27/0 Action: Favorable

Heastie	Excused	Kolb	Aye
Gottfried	Aye	Crouch	Aye
Lentol	Aye	Finch	Aye
Gantt	Excused	Barclay	Aye
Nolan	Excused	Raia	Aye
Weinstein	Aye	Hawley	Aye
Ortiz	Aye	Giglio	Aye
Pretlow	Aye	Malliotakis	Aye
Cook	Aye		
Glick	Aye		
Aubry	Aye		
Englebright	Aye		
Dinowitz	Aye		
Colton	Aye		
Magnarelli	Aye		
Perry	Aye		
Paulin	Aye		
Titus	Excused		
Peoples-Stokes	Aye		
Benedetto	Aye		
Lavine	Aye		
Lupardo	Aye		
Zebrowski	Aye		

A08318 Floor Votes:

There are no votes for this bill in this legislative session.

A08318 Memo:

NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A8318**SPONSOR:** Carroll**TITLE OF BILL:** An act to amend the civil practice law and rules, in relation to the statute of limitations for certain crimes related to fraudulent practices in respect to stocks, bonds and other securities**JUSTIFICATION:**

For decades, courts in New York followed the precedent that claims brought under the Martin Act and under Section 63(12) of the State's Executive Law had six-year statutes of limitation. The Martin Act is one of the state's most powerful tools to prosecute financial fraud, and Section 63(12) is the cornerstone of the state's consumer protection laws. This six-year timeline was essential to some of the most meaningful cases that have reined in Wall Street excesses, halted fraudulent practices, and returned millions of dollars to defrauded consumers and investors. A recent Court of Appeals decision overturned this precedent, finding that the statute of limitations should be reduced to three years instead of six for Martin Act violations and fraud under the Executive Law other than common law fraud. This turned on its head literally decades of case law. The Court of Appeals ruling jeopardizes the state's ability, through the Office of Attorney General ("OAG"), to protect investors and consumers, prevent bad practices, and hold companies accountable for fraud and illegal conduct. It also impairs the OAG's ability to recover relief for consumers harmed by such conduct.

As it currently stands, a three year statute of limitations is significantly shorter than that of many comparable state statutes of limitation. Many states have no statute of limitations for attorney general actions involving consumer frauds, while others have a six-year or longer statutes of limitations. Other enforcement agencies also have longer statute of limitations periods. For example, the Securities and Exchange Commission has no statute of limitations for equitable remedies and a five-year statute of limitations for civil penalties. A six-year statute of limitations would ensure that OAG is able to operate on equal footing with other agencies, which is of paramount importance given the reduced enforcement activity that has taken place during the Trump Administration. Correcting this is critical to maintaining OAG's status as a preeminent enforcer of consumer protection and securities law in New York State.

Important cases involving financial fraud or other fraudulent or illegal conduct often take time to develop and involve extensive investigations often in novel areas of business practices. Electronic discovery, which often requires significant time to collect, review, and produce, is often a major source of delay. In some cases, targets of fraud place roadblocks in the path of the OAG's collection of key evidence, necessitating motions to compel compliance, which can further delay the filing of a lawsuit. Returning to a six-year statute of limitations would allow OAG a reasonable amount of time to investigate cases of fraud.

Clarifying that the statute of limitations for claims under the Martin Act and Executive Law is six years will allow New York State to better protect investors and consumers, obtain more relief for consumers, and bring its authority in line with other states and enforcement agencies. This timeline is critical to the work of the OAG and has previously allowed it to pursue justice including in the office's landmark cases on residential mortgage backed securities following the 2008 financial crisis. These settlements resulted in over a billion dollars for the state and included millions of dollars in consumer relief and cash for legal services and housing counseling for victims of Hurricane Sandy. This legislation will facilitate OAG to continue to work on financial and other fraud cases with substantial impact and achieve better results for New York State and its residents.

LEGISLATIVE HISTORY:**FISCAL IMPLICATIONS:****EFFECTIVE DATE:**

This act shall take effect immediately.

A08318 Text:

STATE OF NEW YORK

8318

2019-2020 Regular Sessions

IN ASSEMBLY

June 13, 2019

Introduced by M. of A. CARROLL, DINOWITZ -- (at request of the Department of Law) -- read once and referred to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to the statute of limitations for certain crimes related to fraudulent practices in respect to stocks, bonds and other securities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section 213 of the civil practice law and rules is amended
2 by adding a new subdivision 9 to read as follows:
3 9. an action by the attorney general pursuant to article
4 twenty-three-A of the general business law or subdivision twelve of
5 section sixty-three of the executive law.
6 § 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11030-01-9