

## ALABAMA SECURITIES COMMISSION

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### **Alabama Statute of Limitations Bill Signed by Governor Bentley New Law Protects Citizens Against Financial Predators**

MONTGOMERY, ALABAMA (April 9, 2014) House Bill 325 was signed by Governor Bentley yesterday. This new law will strengthen the State's ability to prosecute serious crimes like financial fraud.

Alabama State Representative Paul DeMarco (R), 46th District, Chairman of the House Judiciary Committee, sponsored the bill with the support of Speaker of the House, Mike Hubbard (R), 79th District. This important bill passed the House in February and will enhance the ability to prosecute securities and financial fraud and other serious crimes by increasing the statute of limitations.



Rep. DeMarco



Sen. Ward

Securities Commission Director Borg commended State Senator Cam Ward (R), 14th District, for successfully carrying this bill through the Senate in April; and also thanked Senate Majority Leader, J. T. "Jabo" Waggoner (R), 16<sup>th</sup> District, and Senate President Pro Tem, Del Marsh (R), 12<sup>th</sup> District, for their invaluable support of this important bill strengthening the State of Alabama's ability to prosecute crimes against our citizens.

Alabama Securities Commission Director Joseph Borg said, "This new law will have a positive impact on law enforcement's ability to prosecute serious crimes that are categorized as felonies in Alabama. The Commission appreciates the strong leadership and backing of this bill from Representative DeMarco as it will positively impact the ability to successfully prosecute the perpetrators of financial and property crimes against Alabamians and especially on behalf of our senior citizens who are particularly targeted by scamsters and con artists."

Previously the enforcement community only had three years to investigate and prosecute most felony offenses. Most states and the federal government provide for longer periods of time. The additional time will significantly aid law enforcement in gathering evidence that could lead to charges. Complex economic and financial crimes are difficult to detect and are often not reported to law enforcement until after the present statute of limitations has already lapsed. This new law allows for the prosecution of crimes involving securities fraud and other thefts involving deception for a period of five years following the discovery of the deception or fraud, instead of the date of the transaction, thereby limiting a criminal's ability to immunize himself from prosecution by employing schemes which prevent timely discovery.

One example pertains to a fraudster selling an investor a fraudulent Five-Year promissory note, purporting to pay 10% per year, for the purpose of furthering a fictitious enterprise. At the due date, the investor attempts to collect on the note but discovers that the deal was a scam. Under the past statute of limitations, the State couldn't prosecute the fraudster for theft by deception, and could only prosecute under the Securities Act if the fraudster committed some act in furtherance of the fraud within five years of such event, even if the deception giving rise to the fraud was not discovered until much later.

ASC Director Joseph Borg also said, "We are grateful for Representative DeMarco's strong support, sponsorship and understanding of the importance of this new law to protect Alabamians. Also, we thank Senator Cam Ward for promoting this law in the Senate, giving law enforcement stronger tools. This new law will be a great asset to enhance the prosecution of criminals who victimize Alabama citizens."

HB 325 may be viewed at: <http://www.legislature.state.al.us>.

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For more information contact Dan Lord, Education and Public Affairs Manager, 334-353-4858.

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