



Insurance, Banks & Financial Services Bulletin



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Clarity for Ohio Banks and Customers: Action Against Bank Must be Filed Within Record Retention Limitations Period

The Ohio Supreme Court, in *Spiller v. Sky Bank*, Slip Op. No. 2009-Ohio-2682, has reaffirmed that actions against Ohio banks based on an account must be brought within the applicable “record retention” limitations period in R.C. 1109.69, including in instances where the account in question is an automatically-renewing certificate of deposit.

In this case, the customer produced a very old original certificate of deposit and asserted her belief that the CD (which was automatically renewable) had not been redeemed. The bank had no record of the existence of the account. The Ohio Supreme Court held that when an action is brought against a bank that is based or dependent upon records maintained by the bank, the action must be brought within the statutory period for record retention, even for automatically-renewable certificate of deposit accounts.

The decision is important in reinforcing the statutory record maintenance periods set forth in R.C. 1109.69 for a number of critical reasons, including:

- The need to manage operational risk and mitigate opportunities for fraudulent claims against banks;
- To provide clarity and certainty in the bank record-keeping and record-maintenance process;
- And to provide clarity and certainty with regard to bank records in the regulatory examination and audit processes.

The decision is an important reaffirmation of the current state of the law in Ohio with regard to retention of bank account records, and it provides further operating clarity for reliance by Ohio banks.

Bricker & Eckler LLP represented the Ohio Bankers League as amicus curiae in the case.

For more information, please contact Jeff Smith at jsmith@bricker.com, or Anne Marie Sferra at asferra@bricker.com.

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