BILL ANALYSIS

Senate Research Center
82R4986 AJA-D

S.B. 450
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State Affairs
3/8/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The statute of limitations on a cause of action relating to a debt is four years. However, there has been a split in the courts on determining when the limitations period begins to accrue.

S.B. 450 clarifies that the statute of limitations begins to run 60 days after either the last payment on the account or the last charge on the account, whichever is later. Additionally, this bill expressly states that a payment made in violation of the federal Fair Debt Collection Practices Act does not serve to toll the limitations period.

As proposed, S.B. 450 amends current law relating to the time for bringing an action on a consumer debt.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 16.004, Civil Practice and Remedies Code, by amending Subsection (a) and by adding Subsections (d) and (e), as follows:

> (a) Creates an exception to Subsection (a) under Subsection (d).
>
> (d) Requires a person to bring suit on a cause of action on a consumer debt, as defined by Section 392.001 (Definitions), Finance Code, not later than four years after the 60th day after the later of:
>
>> (1) the date of the last payment on the account by the debtor other than a payment in violation of the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692 et seq.) or Subchapter D (Prohibited Debt Collection Methods), Chapter 392, Finance Code; or
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>> (2) the date of the last charge on the account by the debtor.
>
> (e) Provides that this section does not apply to an action that is subject to Section 3.118 (Statute of Limitations), Business & Commerce Code.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2011.