

**SUBJECT:** Statute of limitations for fraud, breach of fiduciary duty

**COMMITTEE:** Civil Practices — committee substitute recommended

**VOTE:** 9 ayes — Bosse, Janek, Alvarado, Dutton, Goodman, Hope, Nixon, Smithee, Zbranek  
0 nays

**WITNESSES:** For — Jerry Jones, Texas Academy of Probate Attorneys; Joyce Moore  
Against — None

**DIGEST:** CSHB 2456 would include fraud and breach of fiduciary duty in the four-year statute of limitations — the time in which a suit must be brought — provision in the Texas Civil Practices and Remedies Code.  
  
CSHB 2456 would explicitly state the intent of the bill is to clarify existing law by resolving a conflict in case law concerning statute of limitations for these actions. CSHB 2456 also would explicitly state that it would not affect the two-year statute of limitations for breach of the duty of good faith and fair dealing.  
  
This bill would take effect August 30, 1999.

**SUPPORTERS SAY:** There is currently a conflict among appellate courts dealing with the statute of limitations length for actions on fraud and breach of fiduciary duty. The Texas Supreme Court settled the question regarding actions for fraud in a 1990 case, *Williams v. Khalaf*, 802 S.W.2d 651, holding that the statute of limitations based on common law and the statutes enacted by the Legislature clearly called for a four-year statute of limitations.  
  
This legislation is necessary to bring all courts in line with the Supreme Court's decision on fraud actions, as well as clarify that actions for breach of fiduciary duty are held to the same limitations period as fraud actions.  
  
CSHB 2456 would make it clear that the intention of this legislation is not to change the statute of limitations, but to clarify what that period is currently. It

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also would ensure that this legislation would not affect breach of the duty of good faith and fair dealing, usually claimed in insurance cases.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The committee substitute added language relating to the intent of the bill and changes the effective date from September 1, 1999 to 90 days after adjournment.