

SUBJECT: Making consumer debts barred by the statute of limitations non-revivable

COMMITTEE: Pensions, Investments and Financial Services — committee substitute recommended

VOTE: 9 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Wu

0 nays

2 absent — Longoria, Stephenson

WITNESSES: For — Ann Baddour, Texas Appleseed; Tara Lee, Texas Watch; Neil Sobol (*Registered, but did not testify*: Nataly Saucedo, United Ways of Texas; Robyn Ross)

Against — None

On — Michael Scott; (*Registered, but did not testify*: Tom Morgan, American Collectors Association of Texas; Fred Shannon, Encore Financial Services)

BACKGROUND: Civil Practice and Remedies Code sec. 16.004 requires that a person bring suit for certain actions within four years of the action. This section applies to suits filed for the payment of debt.

Concerns have been raised that some debt collectors have used the threat of litigation against consumers regarding debts for which the statute of limitations has expired in order to induce the consumer to engage in activity that would legally reset the statute of limitations on debt collection action, effectively reviving the debt.

DIGEST: CSHB 996 would prohibit debt buyers, as defined by the bill, from directly or indirectly commencing an action against or initiating arbitration with a consumer for the purpose of collecting a consumer debt after the limitation period established by Civil Practice and Remedies

Code sec. 16.004 had expired.

A collection action on consumer debt that was past the statute of limitations could not be revived by any activity on the consumer debt, including payment.

A debt buyer or person acting on behalf of a debt buyer who acquired consumer debt and was engaged in collecting a consumer debt barred by the statute of limitations would be required to provide a specific notice in the initial written communication with the consumer, including a statement that the law limits how long the consumer could be sued on a debt and that the collection agency would not sue the consumer for it.

A debt buyer's failure to comply with the bill's provisions would not be a criminal offense.

The bill would take effect September 1, 2019.