

## **BILL ANALYSIS**

C.S.H.B. 3079  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties assert that a federal court has ruled that, under the theory of residual statute of limitations, constitutional homestead protections expire after four years and that this erroneous precedent may be applied to other situations. C.S.H.B. 3079 seeks to address this issue.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 3079 amends the Civil Practice and Remedies Code to clarify that, along with an action for the recovery of real property, an action to enforce a right or remedy provided by provisions of the Texas Constitution that protect a homestead from forced sale for the payment of debts other than certain debts specifically excepted, if the right or remedy relates to homestead protections in regard to certain extensions of credit, also is excluded from the application of the residual limitations period, which expires four years after the day a cause of action accrues in an action for which there is no express limitations period. The bill clarifies that an action to enforce a right or remedy provided by such provisions is not time-barred regardless of when the cause of action accrued and authorizes such an action to be brought on or after the bill's effective date notwithstanding any application of a statute of limitations to an action filed before such date asserting the same cause of action.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 3079 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

#### **INTRODUCED**

SECTION 1. Section 16.051, Civil Practice and Remedies Code, is amended to read as follows:

#### **HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 16.051, Civil Practice and Remedies Code, is amended to read as follows:

84R 28845

15.128.735

Substitute Document Number: 84R 25649

Sec. 16.051. RESIDUAL LIMITATIONS PERIOD. (a) Every action for which there is no express limitations period, except an action for the recovery of real property,

must be brought not later than four years after the day the cause of action accrues.

(b) The residual limitations period provided by Subsection (a) does not apply to an action to enforce a right or remedy provided by the constitution of this state, which is superior to all state statutes, including a statute of limitations.

SECTION 2. The amendment by this Act of Section 16.051, Civil Practice and Remedies Code, is intended to clarify rather than change existing law. An action to enforce a right or remedy provided by the constitution of this state is not time barred regardless of when the cause of action accrued and may be brought on or after the effective date of this Act notwithstanding any application of a statute of limitations to an action filed before the effective date of this Act asserting the same cause of action.

SECTION 3. This Act takes effect September 1, 2015.

Sec. 16.051. RESIDUAL LIMITATIONS PERIOD. Every action for which there is no express limitations period, except an action for the recovery of real property and an action to enforce a right or remedy provided by Section 50(a)(6), Article XVI, Texas Constitution,

must be brought not later than four years after the day the cause of action accrues.

SECTION 2. The amendment by this Act of Section 16.051, Civil Practice and Remedies Code, is intended to clarify rather than change existing law. An action to enforce a right or remedy provided by Section 50(a)(6), Article XVI, Texas Constitution, is not time barred regardless of when the cause of action accrued and may be brought on or after the effective date of this Act notwithstanding any application of a statute of limitations to an action filed before the effective date of this Act asserting the same cause of action.

SECTION 3. Same as introduced version.