

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

Senate Bill 42

(Senators Norman and Cassilly)

Judicial Proceedings

Judiciary

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Courts - Consumer Debt Collection Actions - Statute of Limitations

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This bill clarifies the prohibition on reviving or extending the statute of limitations period applicable to a consumer debt collection action. Under the bill, a payment toward, written or oral affirmation of, or any other activity on a debt that occurs after the expiration of the statute of limitations applicable to the consumer debt collection action does not revive or extend the limitations period. This prohibition does not affect the statute of limitations applicable to a cause of action arising from a separate written agreement or written payment plan entered into by the debtor and the creditor or collector before the expiration of the statute of limitations applicable to the consumer debt collection action on the underlying debt.

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Fiscal Summary

**State Effect:** The bill is not expected to materially affect State finances.

**Local Effect:** The bill is not expected to materially affect local finances.

**Small Business Effect:** Potential meaningful.

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Analysis

**Current Law:** A “consumer debt collection action” is any judicial action or arbitration proceeding in which a claim is asserted to collect a consumer debt. However, an action brought by a landlord or a person acting on behalf of a landlord to recover unpaid rent and related costs and fees under § 8-401 of the Real Property Article is not considered a consumer debt collection action.

A creditor or a collector may not initiate a consumer debt collection action after the expiration of the statute of limitations applicable to the consumer debt collection action. Notwithstanding any other provision of law, on the expiration of the statute of limitations applicable to the consumer debt collection action, any subsequent payment toward, written or oral affirmation of, or any other activity on the debt may not revive or extend the limitations period. With specified exceptions, a “debt buyer” is a person who purchases or otherwise acquires consumer debt from a subsequent owner of the debt. A debt buyer has the burden of showing that the applicable statute of limitations has not passed in any consumer debt collection action.

Pursuant to § 5-101 of the Courts and Judicial Proceedings Article, a civil action must be filed within three years from the date it accrues, unless otherwise specified by State law. State law authorizes a longer statute of limitations for filing civil actions for specialties, including a promissory note or other instrument under seal; a bond, except a public officer’s bond; a judgment; a recognizance; and a contract under seal.

**Small Business Effect:** To the extent that the bill’s provisions make creditors more willing to enter into longer payment plans with debtors, the bill may have a potential meaningful impact on small businesses that collect debts and small businesses that owe debts. Longer payment plans may increase the amount of debt small business creditors may be able to collect and may enable creditors to avoid costly litigation against debtors. Longer payment plans may allow small business debtors to pay their debts in lieu of litigation and may provide these businesses with less stressful payment terms.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Department of Labor, Licensing, and Regulation; *Black’s Law Dictionary*; Department of Legislative Services

**Fiscal Note History:** First Reader - January 15, 2018  
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