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**AB-1414 Civil actions: consumer debt.** (2023-2024)

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**Assembly Bill No. 1414**

**CHAPTER 688**

An act to amend Section 337a of, and to add Section 425.30 to, the Code of Civil Procedure, relating to civil actions.

[ Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1414, Kalra. Civil actions: consumer debt.

Existing law prescribes periods for commencement of various actions. Among others, an action upon book account must be commenced within 4 years of the date of the last item on the account, as specified. Existing law defines "book account" for these purposes as a detailed statement constituting the principal record of transactions between a debtor and a creditor.

This bill would exclude consumer debt from the definition of "book account." The bill would define consumer debt to mean any obligation or alleged obligation, incurred on or after July 1, 2024, of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services that are the subject of the transaction are primarily for personal, family, or household purposes and where the obligation to pay appears on the face of a note or written contract.

Existing law permits actions to recover money damages. Under existing case law, courts recognize that common counts may be used to do so as a simplified form of pleading to assert the existence of various forms of monetary indebtedness.

This bill would prohibit the use of common counts, as defined, to recover consumer debt, as defined.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 337a of the Code of Civil Procedure is amended to read:

**337a.** (a) The term "book account" means a detailed statement which constitutes the principal record of one or more transactions between a debtor and a creditor arising out of a contract or some fiduciary relation, and shows the debits and credits in connection therewith, and against whom and in favor of whom entries are made, is entered in the regular course of business as conducted by such creditor or fiduciary, and is kept in a reasonably permanent form and manner and is (1) in a bound book, or (2) on a sheet or sheets fastened in a book or to backing but detachable therefrom, or (3) on a card or cards of a permanent character, or is kept in any other reasonably permanent form and manner. A "book account" does not include consumer debt.

(b) For purposes of this section, "consumer debt" means any obligation or alleged obligation, incurred on or after July 1, 2024, of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services that are the subject of

the transaction are primarily for personal, family, or household purposes and where the obligation to pay appears on the face of a note or in a written contract.

**SEC. 2.** Section 425.30 is added to the Code of Civil Procedure, to read:

**425.30.** (a) In an action for collection of consumer debt, common counts may not be used. For purposes of this section, a “common count” includes, but is not limited to, a claim for recovery of any of the following:

(1) An open book account for money due.

(2) An account stated in writing by and between plaintiff and defendant in which it was agreed that defendant was indebted to plaintiff.

(3) Money had and received by defendant for the use and benefit of plaintiff.

(4) Work, labor, services, and materials rendered at the special instance and request of defendant and for which defendant promised to pay plaintiff.

(5) Goods, wares, and merchandise sold and delivered to defendant and for which defendant promised to pay plaintiff.

(6) Money lent by plaintiff to defendant at defendant's request.

(7) Money paid out, laid out, and expended to or for defendant at defendant's special instance and request.

(b) For purposes of this section, “consumer debt” means any obligation or alleged obligation, incurred on or after July 1, 2024, of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services that are the subject of the transaction are primarily for personal, family, or household purposes and where the obligation to pay appears on the face of a note or in a written contract.

(c) In an action under this section for the collection of consumer debt brought by a debt buyer, as defined in Section 1788.50 of the Civil Code, the debt buyer shall also comply with Section 1788.58 of the Civil Code and the remaining provisions of Title 1.6C.5 (commencing with Section 1788.50) of Part 4 of Division 3 of the Civil Code.