

**SUBJECT:** Exempting state property from attachment, execution and forced sale

**COMMITTEE:** Land and Resource Management — committee substitute recommended

**VOTE:** 9 ayes — Bosse, B. Turner, Crabb, Hamric, Howard, Jackson, Krusee, Mowery, Staples  
0 nays

**WITNESSES:** For — Randy M. Lee, Texas Land Title Association  
Against — None  
On — Ken Mills and Spencer Reid, General Land Office

**DIGEST:** CSHB 833 would exempt state property, including real property held by state agencies and funds, from attachment, execution and forced sale. The bill would prohibit filing or perfecting judgment liens and abstracts of judgments against the state, a unit of state government, or property owned by the state or a unit of state government. Any such judgments or abstract of judgments would be void and unenforceable.  
  
CSHB 933 would take immediate effect if finally approved by a two-thirds record vote of the membership in each house.

**SUPPORTERS SAY:** CSHB 833 would codify current case law that prohibits judgments against the state from being enforced through liens on state property. By clearly stating the common law in the statutes, CSHB 833 could prevent these liens from being filed and prevent the litigation and delays that often ensue to have a lien removed. This would save both the state and persons filing such a lien time and money.  
  
If the state waives its “sovereign immunity” from being sued, individuals can be awarded judgments against the state for various reasons ranging from disputes over contracts to damage claims involving harm to persons or property. While the state is bound by judgments against it, a judgment cannot be enforced in the same way that judgments are enforced against private individuals or entities. A judgment is paid if the Legislature

authorizes or appropriates money to pay it, but a judgment cannot be satisfied through attachment of state property.

Because the case law in this area is substantial and well settled, any lien filed against the state already is unenforceable. Thus, CSHB 833 would not hurt the state nor take away any action currently available to persons who have been awarded judgments.

CSHB 833 also would help combat the fraudulent filing of liens against the state based on bogus judgments from nonexistent courts. These liens can go unnoticed until state property is being sold or transferred, such as through veterans land board programs, and then create delays in completing the transaction. A clear statement in the Property Code that state property is exempt from attachment could prevent some of these liens from being filed and prevent disruption of a legal land transfer.

OPPONENTS  
SAY:

The Legislature should not limit citizens' ability to recover legal judgments against the state. If the Legislature drags its feet in paying legal judgments, the only recourse may be to file a lien against state property in order to attract the attention of the courts, the Legislature and the public. Traditionally, the court recording system is used to provide notice that a claim has been made against a party, and the courts sort out valid and invalid claims. Persons who have received judgments against the state should continue to have the opportunity to file liens and go through the court system to try and recover judgments.

OTHER  
OPPONENTS  
SAY:

It is unclear how provisions stating that judgment liens “may not be filed or perfected against the state” would be enforced. The bill provides no details as to the responsibilities of court clerks or others in enforcing this provision.

NOTES:

The committee substitute added language that would prohibit judgment liens or abstracts of judgments from being filed or perfected and that would make such judgments or abstracts void and unenforceable.

The companion bill, SB 556 by Brown, has been referred to the Senate State Affairs Committee.