

## **BILL ANALYSIS**

Senate Research Center

S.B. 1094  
By: Wentworth  
Jurisprudence  
3-26-97  
As Filed

### **DIGEST**

Currently, in order to fix a mechanic's, contractor's, or materialman's lien on a homestead, a person who is to furnish material or perform labor and the owner must execute a written contract setting forth the terms of the agreement and file it with the county clerk of the county in which the homestead is located. If the filing proves to be inadequate for any reason, the contract is unenforceable. This bill will provide that creation of a lien on a homestead is binding between the parties regardless of filing, but will not be binding on third parties without notice.

### **PURPOSE**

As proposed, S.B. 1094 provides that creation of a lien on a homestead is binding between the parties regardless of filing, but will not be binding on third parties without notice.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 13.001(a), Property Code, to provide that a contract executed under Section 53.059, Property Code, is void as to a creditor or to a subsequent purchaser for a valuable consideration without notice unless the instrument has been acknowledged, sworn to, or proved and filed for record as required by law.

SECTION 2. Repealer: Section 53.059(d), Property Code (Homestead).

SECTION 3. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 4. Emergency clause.