

BILL ANALYSIS

Senate Research Center

H.B. 1086
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Economic Development
5/13/1999
Engrossed

DIGEST

H.B. 1086 provides that a purchase money lien against personal property becomes a purchase money lien on real estate when a manufactured housing unit is converted to real estate under the provisions of Article 5221f, V.T.C.S. (Texas Manufactured Housing Standards Act). This effectively expands the meaning of Article 16, Section 50, of the Texas Constitution. Courts have held that the legislature may define terms not defined in the Constitution, provided that the definition reasonably interprets the meaning of the Constitution and the intent of its framers. This bill also provides that when a person is refinancing the lien, that person is substituted to the lien position of the previous lien holder. Additionally, the bill authorizes a lien on real property to be refinanced with another lien on the real property to which the manufactured home is attached.

PURPOSE

As proposed, H.B. 1086 establishes guidelines for liens on manufactured homes.

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 Subtitle B, Title 5, Property Code, by adding Chapter 62, as follows:

CHAPTER 62. MANUFACTURED HOME LIEN

Sec. 62.001. MANUFACTURED HOME. Defines "manufactured home."

Sec. 62.002. APPLICABILITY. Provides that this chapter applies only to a lien on a manufactured home provided that the loan or credit advance documents state or indicate that the lien is a vendor's lien or is in the nature of a vendor's lien, is a purchase money lien or is in the nature of a purchase money lien, or is a retail installment lien or is in the nature of a retail installment lien.

Sec. 62.003. CONVERSION OF LIEN FROM PERSONAL PROPERTY LIEN TO REAL PROPERTY LIEN. Provides that when the manufactured home converts to real property as provided by Section 2.001(b), the lien on the property is then converted to a purchase money lien on real property by law and exists independently of any other existing lien on the real property to which the home is permanently attached.

Sec. 62.004. REFINANCING OF LIEN. Provides that when a person provides funds to refinance a lien that is secured by a manufactured home, that person is subrogated to the lien position of the previous lien holder. Provides that if the holder of a lien, that is secured by a manufactured home, transfers loan or credit advance documents to a lender who is refinancing the lien, that lender and a title insurance company, title insurance agent or direct operation, or attorney to whom the loan or credit advance documents are delivered holds the loan or credit advance documents in trust for that lien holder. Defines "direct operation." Authorizes a lien that is converted to a purchase money lien on real property under Section 62.003 to be refinanced with another lien on the real property to which the manufactured home is permanently attached as provided by Section 2.001(b).

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.