

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2566
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In recent years, some inmates have attempted to harass and provoke certain elected officials, appointed officials, and state employees against whom they may have some personal complaint by filing false and baseless liens against them. Even though the liens are fraudulent, the persons against whom they are filed must spend time and effort to obtain a release of the liens. Moreover, legitimate business transactions may be delayed while the liens are pending and until they are released.

C.S.H.B. 2566 establishes a requirement that an instrument concerning real or personal property that is to be recorded by an inmate or on behalf of an inmate must include a statement indicating that the person or the person for whom the instrument is being recorded is an inmate. This bill creates a presumption that a document or instrument purporting to create a lien or assert a claim against real or personal property that is filed by an inmate or on behalf of an inmate is fraudulent. This bill provides for the conditions under which the presumption can be rebutted.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.001, Civil Practice and Remedies Code, by adding Subdivisions (2-a), (2-b), (2-c), and (5), to define "filing office," "financing statement," "inmate," and "secure correctional facility," respectively.

SECTION 2. Amends Section 12.002, Civil Practice and Remedies Code, by adding Subsections (a-1) and (a-2) and amending Subsection (b), as follows:

(a-1) Prohibits a person from filing an abstract of a judgment or an instrument concerning real or personal property with a court or county clerk, or a financing statement with a filing office if the person is an inmate or is not licensed or regulated under Title 11 (Title Insurance), Insurance Code, and is filing on behalf of another person who the person knows is an inmate, except as provided by Subsection (a-2).

(a-2) Authorizes a person described by Subsection (a-1) to file an abstract, instrument, or financing statement described by that subsection if the document being filed includes a statement indicating that the person filing the document is an inmate or the person is filing the document on behalf of a person who is an inmate.

(b) Provides that a person who violates Subsection (a) or (a-1) is liable to each injured person for certain fees and damages.

SECTION 3. Amends Section 51.901, Government Code, by amending Subsection (c) and adding Subsections (e) and (f), as follows:

(c) Provides that, for purposes of this section, a document or instrument is presumed to be fraudulent if, among other things, the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and the document or instrument is filed by an inmate or on behalf of an inmate.

(e) Authorizes a presumption under Subsection (c)(3) to be rebutted by providing the filing officer in the filing office in which the document is filed or recorded the original or a copy of a sworn and notarized document signed by the obligor, debtor, or owner of the property designated as collateral stating that the person entered into a security agreement with the inmate and authorized the filing of the financial statement as provided by Section 9.509 (Persons Entitled to File a Record), Business & Commerce Code.

(f) Defines "inmate" and "secure correctional facility."

SECTION 4. Amends Section 405.021, Government Code, as added by Chapter 407, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Sec. 405.021. FILING OR RECORDING OF FRAUDULENT DOCUMENT. (a) Creates this subsection from existing text.

(b) Provides that for the purposes of this section, a document or instrument is presumed to be fraudulent if the document or instrument is filed by an inmate or on behalf of an inmate.

(c) Authorizes a presumption under Subsection (b) to be rebutted by providing the secretary of state the original or a copy of a sworn and notarized document signed by the obligor, debtor, or owner of the property designated as collateral stating that the person entered into a security agreement with the inmate and authorized the filing of the instrument as provided by Section 9.509, Business & Commerce Code.

(d) Defines "inmate" and "secure correctional facility."

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2007.