

BILL ANALYSIS

Senate Research Center
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S.B. 1592
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Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1592 is intended to clarify rather than change existing law and bring consistency to the document of title statutes.

As proposed, S.B. 1592 adds and amends certain chapters of the Business and Commerce Code, Occupations Code, Parks and Wildlife Code, and Transportation Code, to authorize the holders of certain security interests or liens to assign, absolutely or otherwise, the holder's certain security interests or liens; provides that an assignee's failure to make the application or notify the debt of the assignment does not create a cause of action against the assignee or the security-interest holder or affect the validity or perfection of the security interest assigned to the assignee; and provides that this Act it intended to clarify rather than change existing law.

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 Chapter 261, Business & Commerce Code, as effective April 1, 2009, by adding Section 261.012, as follows:

Sec. 261.012. ASSIGNMENT OF SECURITY INTEREST. (a) Authorizes a holder of a utility security interest under Section 261.004 (Filing Utility Security Instrument With Secretary of State: Perfection and Notice), to assign, absolutely or otherwise, the holder's security interest in personal property subject to this chapter to a person other than the owner of the property without affecting the interest of the owner or the validity or perfection of the security interest, but any person without notice of the assignment is protected in dealing with the security-interest holder as the holder of record of the security interest and the security-interest holder remains liable for any obligation as security-interest holder on the utility security instrument until the assignee is named as security-interest holder on the utility security interest. Provides that the same rules apply to subsequent assignees of the original or subsequent assignees.

(b) Authorizes an assignee to record the assignment of a security instrument under this chapter by applying to the secretary of state for the assignee to be named as security-interest holder on the utility security instrument and notifying the debtor utility of the assignment. Provides that an assignee's failure to make the application or notify the debtor utility of the assignment does not create a cause of action against the assignee or the security-interest holder or affect the validity or perfection of the security interest assigned to the assignee.

SECTION 2. Amends Section 1201.219, Occupations Code, by adding Subsections (d) and (e), as follows:

(d) Authorizes a holder of a lien perfected under Subsection (b) (relating to a lien on a manufactured home) to assign, absolutely or otherwise, the holder's lien on a manufactured home to a person other than the owner of the manufactured home without affecting the interest of the owner or the validity or perfection of the lien, but any person without notice of the assignment is protected in dealing with the lienholder as the holder

of record of the lien and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the statement of ownership and location. Provides that the same rules apply to subsequent assignees of the original or subsequent assignee.

(e) Authorizes an assignee to record the assignment of a lien on a manufactured home by applying to the Texas Department of Licensing and Regulation (TDLR) for the assignee to be named as lienholder on the statement of ownership and location and notifying the debtor of the assignment. Provides that an assignee's failure to make an application or notify the debtor of the assignment does not create a cause of action against the assignee or the lienholder or affect the validity or perfection of the lien assigned to the assignee.

SECTION 3. Amends Section 31.052, Parks and Wildlife Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Provides that except as provided by this section and Section 31.050(c) (relating to authorizing a security interest in a vessel or outboard motor held as inventory by a person who is in the business of selling or leasing goods of that kind), rather than in Subsection (c) of Section 31.050 (Form of Manufacturer's and Importer's Certificate) of this code, and except for statutory liens, security interests in a vessel or outboard motor are required to be noted on the certificate of title of the vessel or outboard motor to which the security interest applies.

(c) Authorizes a security-interest holder to assign, absolutely or otherwise, the holder's security interest in the vessel or outboard motor to a person other than the owner of the vessel or outboard motor without affecting the interest of the owner or the validity or perfection of the security interest, but any person without notice of the assignment is protected in dealing with the security-interest holder as the holder of record of the security interest and the security-interest holder remains liable for any obligations as security-interest holder until the assignee is named as security-interest holder on the certificate of title. Provides that the same rules apply to subsequent assignees of the original or subsequent assignees.

(d) Authorizes an assignee to record the assignment of a security interest in a vessel or outboard motor under this subchapter by applying to TDLR or a county tax assessor-collector for the assignee to be named as security-interest holder on the certificate of title and notifying the debtor of the assignment. Provides that an assignee's failure to make the application or notify the debtor of the assignment does not create a cause of action against the assignee or the security-interest holder or affect the validity or perfection of the security interest assigned to the assignee.

SECTION 4. Amends Section 501.114, Transportation Code, as follows:

Sec. 501.114. ASSIGNMENT OF LIEN. (a) Authorizes a lienholder to assign, absolutely or otherwise, the holder's lien on a motor vehicle to a person other than the owner of the motor vehicle without affecting the interest of the owner or the validity or perfection of the lien, but any person without notice of the assignment is protected in dealing with the lienholder as the holder or record of the lien and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the certificate of title. Provides that the same rules apply to subsequent assignees of the original or subsequent assignees.

(b) Authorizes an assignee to record the assignment of a lien recorded under Section 501.113 (Recordation of Security Interest) by applying to the county assessor-collector for the assignee to be named as lienholder on the certificate of title, rather than for the assignment of the lien.

(c) Redesignates Subsection (b) as Subsection (c). Provides that an assignee's, rather than a lienholder's, failure to make an application under Subsection (b) or notify a debtor of an assignment does not create a cause of action against the

assignee or the lienholder or affect the validity or perfection of the lien assigned to the assignee.

(d) Redesignates Subsection (c) as Subsection (d). Requires that an application under Subsection (b), rather than (a), be signed by the person to whom the lien is assigned and accompanied by the applicable fee, a copy of the assignment agreement executed by the parties, and the certificate of title on which the lien to be assigned is recorded.

(e) Redesignates Subsection (d) as Subsection (e). Makes no changes to this subsection.

(f) Redesignates Subsection (e) as Subsection (f). Provides that the issuance of a certificate of the title under Subsection (e), rather than Subsection (d), is a recordation of the assignment.

SECTION 5. Provides that this Act is intended to clarify rather than change existing law.

SECTION 6. Effective date: upon passage or September 1, 2009.