BILL ANALYSIS

H.B. 729
By: Nixon
Civil Practices
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The turnover statute is a postjudgment remedy enacted to shift the burden of disclosure of assets from the judgment-creditor to the judgment-debtor. At least two lower court decisions appear to require property subject to turnover to a Court Appointed Receiver to be specifically identified by the creditor in the application for a turnover order. The rulings make the turnover procedure ineffective in that the debtor is advised in the turnover application what property the Receiver intends to take possession of and gives the debtor an opportunity to dispose of the property even before a Receiver can be appointed. Further, in the event specific assets are unknown at the time of the application to the court, a creditor would be precluded from utilizing the statute.

HB 729 clarifies that a court may enter or enforce an order that requires the turnover of nonexempt property without identifying the specific property subject to turnover.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

HB 729 amends Section 31.002, Civil Practice and Remedies Code, by adding Subsection (h) to state that a court may enter or enforce an order under this section that requires the turnover of nonexempt property without identifying in the order the specific property subject to turnover.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.