

BILL ANALYSIS

C.S.S.B. 464
By: Ellis
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, judgments become dormant (i.e. "stale") if they are not revived every 10 years by issuing a writ of execution, which has the effect of renewing the judgment lien once an abstract of that judgment is recorded. Ordinarily, the judgment lien expires if it is not properly renewed. This bill amends the Property Code to prevent a judgment in favor of the State or a state agency (including institutions of higher education) from becoming dormant.

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

CSSB 464 amends Section 52.006 of the Property Code to provide that judgments in favor of the State or a state agency, shall not become dormant until the earlier of the date the debt secured by the lien is paid or the lien periods provided for in 52.006(b) expire.

CSSB 464 would allow an initial 20 year judgment lien (once the abstract is recorded) plus the option of extending that lien for one additional 20 year period by filing a new abstract of judgment. In order to exercise the option to extend a lien, the state is required to file a new abstract prior to expiration of the first 20 year period to continue the lien for an additional 20 years, at which time, the lien expires.

EFFECTIVE DATE

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

COMPARISON OF ORIGINAL TO SUBSTITUTE

CSSB 464 allows the state to file a new lien every 20 years for two terms.
CSSB 464 removes continual liens.