BILL ANALYSIS

Senate Research Center   C.S.S.B. 464
79R9425 AJA-F   By: Ellis
           Government Organization
           3/15/2005
           Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

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 not properly renewed.

During this past interim, the Senate Committee on Government Organization found that the process to renew a judgment is both time-consuming and costly. The Office of the Attorney General must track thousands of judgments, review all judgments that are approaching 10 years, determine which to renew by requesting a writ of execution from the district court clerk's office, obtain the writ, send it out to the sheriff in the appropriate county to serve the writ, track the service, pay the service fee, request a new abstract of judgment from the district court clerk's office, and file that new abstract in the appropriate counties.

C.S.S.B. 464 eliminates the time and costs associated with this process by amending Section 52.006, Property Code, to prevent a judgment in favor of the state or a state agency, including institutions of higher education, from becoming dormant and making the judgment lien continual without the need to renew the judgment and reissue an abstract every 10 years.

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 52.006, Property Code, as follows:

Sec. 52.006. DURATION OF LIEN. (a) Creates an exception, as provided by Subsection (b), to the rule that a judgment lien continues for 10 years following the date of recording and indexing the abstract, except that if the judgment becomes dormant during that period the lien ceases to exist. Creates this subsection from existing text and makes a nonsubstantive change.

(b) Provides that, notwithstanding Section 34.001 (No Execution on Dormant Judgment), Civil Practice and Remedies Code, a judgment in favor of the state or a state agency does not become dormant. Provides that a properly filed abstract of the judgment continues to constitute a lien until the judgment is satisfied or the lien is released.

SECTION 2. Provides that the change in the law made by this Act applies to a judgment, if the judgment is not then dormant, that exists on the effective date of this Act; a judgment lien on record before the effective date of this Act; or a judgment entered or abstract of judgment recorded or indexed on or after the effective date of this Act.

SECTION 3. Effective date: upon passage or September 1, 2005.