

By: Madden

H.B. No. 2566

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a document or instrument filed by an inmate with a court
3 concerning real or personal property.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 12.001, Civil Practice and Remedies
6 Code, is amended by adding Subdivisions (2-a), (2-b), (2-c), and
7 (5) to read as follows:

8 (2-a) "Filing office" has the meaning assigned by
9 Section 9.102, Business & Commerce Code.

10 (2-b) "Financing statement" has the meaning assigned
11 by Section 9.102, Business & Commerce Code.

12 (2-c) "Inmate" means a person housed in a secure
13 correctional facility.

14 (5) "Secure correctional facility" has the meaning
15 assigned by Section 1.07, Penal Code.

16 SECTION 2. Section 12.002, Civil Practice and Remedies
17 Code, is amended by adding Subsections (a-1) and (a-2) and amending
18 Subsection (b) to read as follows:

19 (a-1) Except as provided by Subsection (a-2), a person may
20 not file an abstract of a judgment or an instrument concerning real
21 or personal property with a court or county clerk, or a financing
22 statement with a filing office, if the person:

23 (1) is an inmate; or

24 (2) is not licensed or regulated under Title 11,

1 Insurance Code, and is filing on behalf of another person who the
2 person knows is an inmate.

3 (a-2) A person described by Subsection (a-1) may file an
4 abstract, instrument, or financing statement described by that
5 subsection if the document being filed includes a statement
6 indicating that:

- 7 (1) the person filing the document is an inmate; or
8 (2) the person is filing the document on behalf of a
9 person who is an inmate.

10 (b) A person who violates Subsection (a) or (a-1) is liable
11 to each injured person for:

- 12 (1) the greater of:
13 (A) \$10,000; or
14 (B) the actual damages caused by the violation;
15 (2) court costs;
16 (3) reasonable attorney's fees; and
17 (4) exemplary damages in an amount determined by the
18 court.

19 SECTION 3. Section 51.901, Government Code, is amended by
20 amending Subsection (c) and adding Subsections (e) and (f) to read
21 as follows:

22 (c) For purposes of this section, a document or instrument
23 is presumed to be fraudulent if:

- 24 (1) the document is a purported judgment or other
25 document purporting to memorialize or evidence an act, an order, a
26 directive, or process of:

- 27 (A) a purported court or a purported judicial

1 entity not expressly created or established under the constitution
2 or the laws of this state or of the United States; or

3 (B) a purported judicial officer of a purported
4 court or purported judicial entity described by Paragraph (A); [~~or~~]

5 (2) the document or instrument purports to create a
6 lien or assert a claim against real or personal property or an
7 interest in real or personal property and:

8 (A) is not a document or instrument provided for
9 by the constitution or laws of this state or of the United States;

10 (B) is not created by implied or express consent
11 or agreement of the obligor, debtor, or the owner of the real or
12 personal property or an interest in the real or personal property,
13 if required under the laws of this state, or by implied or express
14 consent or agreement of an agent, fiduciary, or other
15 representative of that person; or

16 (C) is not an equitable, constructive, or other
17 lien imposed by a court with jurisdiction created or established
18 under the constitution or laws of this state or of the United
19 States; or

20 (3) the document or instrument purports to create a
21 lien or assert a claim against real or personal property or an
22 interest in real or personal property and the document or
23 instrument is filed by an inmate or on behalf of an inmate.

24 (e) A presumption under Subsection (c)(3) may be rebutted by
25 providing the clerk of the court in which the document is filed or
26 recorded the original or a copy of a sworn and notarized document
27 signed by the obligor, debtor, or owner of the property designated

1 as collateral stating that the person entered into a security
2 agreement with the inmate and authorized the filing of the
3 financial statement as provided by Section 9.509, Business &
4 Commerce Code.

5 (f) In this section:

6 (1) "Inmate" means a person housed in a secure
7 correctional facility.

8 (2) "Secure correctional facility" has the meaning
9 assigned by Section 1.07, Penal Code.

10 SECTION 4. The change in law made by this Act applies only
11 to a document or instrument presented for recording on or after the
12 effective date of this Act. A document or instrument presented for
13 recording before the effective date of this Act is covered by the
14 law in effect when the document or instrument was presented for
15 recording, and the former law is continued in effect for that
16 purpose.

17 SECTION 5. This Act takes effect September 1, 2007.