

By: Madden

H.B. No. 2566

Substitute the following for H.B. No. 2566:

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C.S.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, Property Code, is amended by  
6 amending Subsection (a) and adding Subsection (e) to read as  
7 follows:

8 (a) An instrument concerning real or personal property may  
9 be recorded if it has been acknowledged, sworn to with a proper  
10 jurat, or proved according to law. The instrument must include a  
11 statement indicating whether the person recording the instrument,  
12 or on whose behalf the person is recording the instrument, is an  
13 inmate.

14 (e) In this section:

15 (1) "Inmate" means a person housed in a secure  
16 correctional facility.

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

19 SECTION 2. Section 52.003, Property Code, is amended by  
20 amending Subsection (a) and adding Subsection (c) to read as  
21 follows:

22 (a) An abstract of a judgment must show:

23 (1) the names of the plaintiff and defendant;

24 (2) the birthdate and driver's license number of the

1 defendant, if available to the clerk or justice;

2 (3) the number of the suit in which the judgment was  
3 rendered;

4 (4) the defendant's address, or if the address is not  
5 shown in the suit, the nature of citation and the date and place of  
6 service of citation;

7 (5) the date on which the judgment was rendered;

8 (6) the amount for which the judgment was rendered and  
9 the balance due;

10 (7) the amount of the balance due, if any, for child  
11 support arrearage; ~~and~~

12 (8) the rate of interest specified in the judgment;  
13 and

14 (9) whether the plaintiff is an inmate.

15 (c) In this section:

16 (1) "Inmate" means a person housed in a secure  
17 correctional facility.

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

20 SECTION 3. Section 9.502, Business & Commerce Code, is  
21 amended by amending Subsection (a) and adding Subsection (e) to  
22 read as follows:

23 (a) Subject to Subsection (b), a financing statement is  
24 sufficient only if it:

25 (1) provides the name of the debtor;

26 (2) provides the name of the secured party or a  
27 representative of the secured party and states whether the secured

1 party is an inmate; and

2 (3) indicates the collateral covered by the financing  
3 statement.

4 (e) In this section:

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

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

9 SECTION 4. Section 51.901, Government Code, is amended by  
10 amending Subsection (c) and adding Subsections (e) and (f) to read  
11 as follows:

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

14 (1) the document is a purported judgment or other  
15 document purporting to memorialize or evidence an act, an order, a  
16 directive, or process of:

17 (A) a purported court or a purported judicial  
18 entity not expressly created or established under the constitution  
19 or the laws of this state or of the United States; or

20 (B) a purported judicial officer of a purported  
21 court or purported judicial entity described by Paragraph (A); ~~or~~

22 (2) the document or instrument purports to create a  
23 lien or assert a claim against real or personal property or an  
24 interest in real or personal property and:

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

27 (B) is not created by implied or express consent

1 or agreement of the obligor, debtor, or the owner of the real or  
2 personal property or an interest in the real or personal property,  
3 if required under the laws of this state, or by implied or express  
4 consent or agreement of an agent, fiduciary, or other  
5 representative of that person; or

6 (C) is not an equitable, constructive, or other  
7 lien imposed by a court with jurisdiction created or established  
8 under the constitution or laws of this state or of the United  
9 States; or

10 (3) the document or instrument purports to create a  
11 lien or assert a claim against real or personal property or an  
12 interest in real or personal property and the document or  
13 instrument is filed by an inmate or on behalf of an inmate.

14 (e) A presumption under Subsection (c)(3) may be rebutted by  
15 providing the clerk of the court in which the document is filed or  
16 recorded the original or a copy of a sworn and notarized document  
17 signed by the obligor, debtor, or owner of the property designated  
18 as collateral stating that the person entered into a security  
19 agreement with the inmate and authorized the filing of the  
20 financial statement as provided by Section 9.509, Business &  
21 Commerce Code.

22 (f) In this section:

23 (1) "Inmate" means a person housed in a secure  
24 correctional facility.

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

27 SECTION 5. The change in law made by this Act applies only

1 to a document or instrument presented for recording on or after the  
2 effective date of this Act. A document or instrument presented for  
3 recording before the effective date of this Act is covered by the  
4 law in effect when the document or instrument was presented for  
5 recording, and the former law is continued in effect for that  
6 purpose.

7 SECTION 6. This Act takes effect September 1, 2007.