

## **BILL ANALYSIS**

C.S.S.B. 432  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

C.S.S.B. 432 establishes an amount of liability for a financial institution that does not comply with a notice of child support lien or notice of lien equal to the greater of 1.5 times the value of the property that was subject to the lien or notice of levy or \$5,000, but not to exceed the total amount of child support arrearages. C.S.S.B. 432 establishes an amount of liability for a person who does not comply with a notice of child support lien or notice of lien equal to the greater of three times the value of the property that was subject to the lien or notice of levy or \$5,000, but not to exceed the total amount of child support arrearages. The bill requires that 50 percent of the amount paid by a person to the claimant be credited against the child support arrearages owed by the obligor. The bill allows the claimant to recover costs and attorney's fees if an action is required to enforce the lien or notice of levy. The bill provides that a financial institution is not liable for the disposition of assets if the child support lien or notice of levy does not contain an account number or social security number of an account owner of record.

### **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**

C.S.S.B. 432 amends the Family Code to specify that a person, other than a financial institution, is liable for failure to comply with a child support lien or court order if the person pays over, releases, sells, transfers, encumbers, or conveys property subject to a child support lien, in addition to otherwise disposing of the property. The bill increases the amount for which such a person or a person who fails to surrender nonexempt personal property is liable to a claimant from an amount equal to the value of the property to an amount equal to the greater of three times the value of the property or \$5,000 but provides the amount is not to exceed the amount of the child support arrearages for which the lien or foreclosure judgment was issued. The bill establishes the amount of liability to a claimant for a financial institution that pays over, releases, sells, transfers, encumbers, conveys, or otherwise disposes of property subject to a child support lien or that, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court to be an amount equal to the greater of one and one-half times the value of the property paid over, released, sold, transferred, encumbered, conveyed, or otherwise disposed of or not surrendered or \$5,000, but not to exceed the amount of the child support arrearages for which the lien or foreclosure judgment was issued.

C.S.S.B. 432 authorizes a claimant to recover costs and reasonable attorney's fees incurred in bringing an action relating to a person's or institution's failure to comply with a child support lien. The bill requires 50 percent of the amount paid to the claimant for a failure to comply with a child support lien to be credited against the child support arrearages owed by the obligor. The bill exempts a financial institution from liability for the disposition of assets in an account if the child support lien or notice of levy does not contain either the account number or the social security number of an account owner of record.

C.S.S.B. 432 clarifies that a person, other than a financial institution, who possesses or has a right to property that is the subject of a notice of levy for child support is liable for a failure to comply with the notice if the person fails to surrender the property that should have been paid or delivered to a claimant in a timely manner, in addition to liability for a person who refuses to

return the property. The bill increases the amount for which a person who fails to comply with a notice of levy is liable to a claimant from an amount equal to the value of the property or right to property to an amount equal to the greater of three times the value of the property or right or \$5,000, but not to exceed the amount of the child support arrearages for which notice of levy has been filed. The bill establishes the amount of liability to a claimant for a financial institution that possesses or has a right to property that is subject of a notice of levy delivered to the financial institution and that refuses or fails to timely surrender the property or right to property that should have been paid or delivered to the claimant on demand to be an amount equal to the greater of one and one-half times the value of the property or right to property that should have been paid or delivered or \$5,000, but not to exceed the amount of the child support arrearages for which notice of levy has been filed.

C.S.S.B. 432 requires 50 percent of the amount paid to the claimant for failure to comply with a notice of levy to be credited against child support arrearages and exempts a financial institution from liability for the disposition of assets if the notice of levy does not contain either the account number or the social security number of an account owner of record.

### **EFFECTIVE DATE**

September 1, 2009.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.S.B. 432 adds provisions not included in the original to establish liability for a financial institution for failure to comply with a child support lien relating to the disposal of property subject to the lien or a failure to surrender on demand certain nonexempt property as directed by a court order. The substitute differs from the original by removing the specification that a person's disposition of the property be knowing disposition for the person to be liable for the noncompliance. The substitute differs from the original by increasing the amount for which a person is liable based on the value of the disposed property from two times the value of the property to three times the value of the property. The bill adds a provision not included in the original establishing the amount of liability for a financial institution that pays over, releases, sells, transfers, encumbers, conveys, or otherwise disposes of property subject to a child support lien or that, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court.

C.S.S.B. 432 adds provisions not included in the original to establish liability for a financial institution for failure to comply with a notice of levy against property subject to a child-support lien. The substitute differs from the original by increasing the amount for which a person is liable based on the value of the property subject to levy, from two times the value of the property to three times the value of the property.

C.S.S.B. 432 adds a provision not included in the original establishing the amount of liability for a financial institution that possesses or has a right to property that is subject of a notice of levy delivered to the financial institution and that refuses or fails to timely surrender the property or right to property that should have been paid or delivered to the claimant on demand. The bill makes conforming changes related to the provisions establishing liability for a financial institution.