

BILL ANALYSIS

Senate Research Center
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S.B. 432
By: Wentworth
Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 432 establishes an amount of liability for a person who or a financial institution that does not comply with a notice of child support lien equal to the greater of: three times the value of the property that was subject to the lien, or \$5,000 (but not to exceed the total amount of child support arrearages). The bill also allows the claimant to recover costs and attorney's fees if an action is required to enforce the lien.

Finally, the bill provides that a financial institution is not liable for the disposition of assets if the child support lien does not contain an account number or social security number of an account owner of record.

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 157.324, Family Code, as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN.

(a) Provides that a person who knowingly pays over, releases, sells, transfers, encumbers, conveys, or otherwise disposes of property subject to a child support lien or who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court under this subchapter is liable to the claimant in an amount equal to the greater of three 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.

(b) Authorizes a claimant to recover costs and reasonable attorney's fees incurred in an action under this section.

(c) Prohibits a penalty paid by a person under this section from being credited against the child support arrearages owed by the obligor.

(d) Provides that a financial institution is not liable under this section for the disposition of assets in an account if the child support lien does not contain either the account number or the social security number of an account owner of record.

SECTION 2. Amends Section 157.330, Family Code, by amending Subsection (a) and adding Subsections (c) and (d), as follows:

(a) Provides that a person who possesses or has a right to property that is the subject of a notice of levy delivered to the person and who refuses or fails to timely surrender the property or right to property that should have been paid or delivered to the claimant on demand is liable to the claimant in an amount equal to the greater of three 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 the notice of levy has been filed, rather than

property not surrendered but that does not exceed that amount of child support arrearages for which the notice of levy has been filed.

(c) Prohibits a penalty paid by a person under this section from being credited against the child support arrearages owed by the obligor.

(d) Provides that a financial institution is not liable under this section for the disposition of assets in an account if the notice of levy does not contain either the account number or the social security number of an account owner of record.

SECTION 3. Effective date: September 1, 2009.