

By: Wentworth

S.B. No. 432

Substitute the following for S.B. No. 432:

By: Hughes

C.S.S.B. No. 432

A BILL TO BE ENTITLED

AN ACT

relating to liability for failure to comply with a child support  
lien, court order, or notice of levy.

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

SECTION 1. Section 157.324, Family Code, is amended to read  
as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR  
LIEN. (a) A person, other than a financial institution, who pays  
over, releases, sells, transfers, encumbers, conveys, or otherwise  
~~[knowingly]~~ 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) 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 under this subchapter is  
liable to the claimant in an amount equal to the greater of one and

1 one-half times the value of the property paid over, released, sold,  
2 transferred, encumbered, conveyed, or otherwise disposed of or not  
3 surrendered or \$5,000, but not to exceed the amount of the child  
4 support arrearages for which the lien or foreclosure judgment was  
5 issued.

6 (c) A claimant may recover costs and reasonable attorney's  
7 fees incurred in an action under this section.

8 (d) Fifty percent of the amount paid to the claimant under  
9 Subsection (a) or (b) shall be credited against the child support  
10 arrearages owed by the obligor.

11 (e) A financial institution is not liable under this section  
12 for the disposition of assets in an account if the child support  
13 lien does not contain either the account number or the social  
14 security number of an account owner of record.

15 SECTION 2. Section 157.330, Family Code, is amended by  
16 amending Subsection (a) and adding Subsections (a-1), (c), and (d)  
17 to read as follows:

18 (a) A person, other than a financial institution, who  
19 possesses or has a right to property that is the subject of a notice  
20 of levy delivered to the person and who refuses or fails to timely  
21 surrender the property or right to property that should have been  
22 paid or delivered to the claimant on demand is liable to the  
23 claimant in an amount equal to the greater of three times the value  
24 of the property or right to property that should have been paid or  
25 delivered or \$5,000, [~~not surrendered~~] but [~~that does~~] not to  
26 exceed the amount of the child support arrearages for which the  
27 notice of levy has been filed.

1       (a-1) A financial institution that possesses or has a right  
2 to property that is the subject of a notice of levy delivered to the  
3 financial institution and that refuses or fails to timely surrender  
4 the property or right to property that should have been paid or  
5 delivered to the claimant on demand is liable to the claimant in an  
6 amount equal to the greater of one and one-half times the value of  
7 the property or right to property that should have been paid or  
8 delivered or \$5,000, but not to exceed the amount of the child  
9 support arrearages for which the notice of levy has been filed.

10       (c) Fifty percent of the amount paid to the claimant under  
11 Subsection (a) or (a-1) shall be credited against the child support  
12 arrearages owed by the obligor.

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

17       SECTION 3. This Act takes effect September 1, 2009.