

By: Fraser

S.B. No. 1592

A BILL TO BE ENTITLED

AN ACT

relating to assignment of security interests in certain collateral.

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

SECTION 1. Chapter 261, Business & Commerce Code, as effective April 1, 2009, is amended by adding Section 261.012 to read as follows:

Sec. 261.012. ASSIGNMENT OF SECURITY INTEREST. (a) A holder of a utility security interest under Section 261.004 may assign, absolutely or otherwise, the holder's security interest in personal property subject to this chapter to a person other than the owner of the property without affecting the interest of the owner or the validity or perfection of the security interest, but any person without notice of the assignment is protected in dealing with the security-interest holder as the holder of record of the security interest and the security-interest holder remains liable for any obligations as security-interest holder on the utility security instrument until the assignee is named as security-interest holder on the utility security interest. The same rules apply to subsequent assignees of the original or subsequent assignees.

(b) An assignee may record the assignment of a security instrument under this chapter by applying to the secretary of state for the assignee to be named as security-interest holder on the utility security instrument and notifying the debtor utility of the assignment. An assignee's failure to make the application or

1 notify the debtor utility of the assignment does not create a cause
2 of action against the assignee or the security-interest holder or
3 affect the validity or perfection of the security interest assigned
4 to the assignee.

5 SECTION 2. Section 1201.219, Occupations Code, is amended
6 by adding Subsections (d) and (e) to read as follows:

7 (d) A holder of a lien perfected under Subsection (b) may
8 assign, absolutely or otherwise, the holder's lien on a
9 manufactured home to a person other than the owner of the
10 manufactured home without affecting the interest of the owner or
11 the validity or perfection of the lien, but any person without
12 notice of the assignment is protected in dealing with the
13 lienholder as the holder of record of the lien and the lienholder
14 remains liable for any obligations as lienholder until the assignee
15 is named as lienholder on the statement of ownership and location.
16 The same rules apply to subsequent assignees of the original or
17 subsequent assignees.

18 (e) An assignee may record the assignment of a lien on a
19 manufactured home by applying to the department for the assignee to
20 be named as lienholder on the statement of ownership and location
21 and notifying the debtor of the assignment. An assignee's failure
22 to make the application or notify the debtor of the assignment does
23 not create a cause of action against the assignee or the lienholder
24 or affect the validity or perfection of the lien assigned to the
25 assignee.

26 SECTION 3. Section 31.052, Parks and Wildlife Code, is
27 amended by amending Subsection (a) and adding Subsections (c) and

(d) to read as follows:

(a) Except as provided by this section and Section 31.050(c), ~~[in Subsection (c) of Section 31.050 of this code]~~ and except for statutory liens, security interests in a vessel or outboard motor shall be noted on the certificate of title of the vessel or outboard motor to which the security interest applies.

(c) A security-interest holder may assign, absolutely or otherwise, the holder's security interest in the vessel or outboard motor to a person other than the owner of the vessel or outboard motor without affecting the interest of the owner or the validity or perfection of the security interest, but any person without notice of the assignment is protected in dealing with the security-interest holder as the holder of record of the security interest and the security-interest holder remains liable for any obligations as security-interest holder until the assignee is named as security-interest holder on the certificate of title. The same rules apply to subsequent assignees of the original or subsequent assignees.

(d) An assignee may record the assignment of a security interest in a vessel or outboard motor under this subchapter by applying to the department or a county tax assessor-collector for the assignee to be named as security-interest holder on the certificate of title and notifying the debtor of the assignment. An assignee's failure to make the application or notify the debtor of the assignment does not create a cause of action against the assignee or the security-interest holder or affect the validity or perfection of the security interest assigned to the assignee.

SECTION 4. Section 501.114, Transportation Code, is amended to read as follows:

Sec. 501.114. ASSIGNMENT OF LIEN. (a) A lienholder may assign, absolutely or otherwise, the holder's lien on a motor vehicle to a person other than the owner of the motor vehicle without affecting the interest of the owner or the validity or perfection of the lien, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of record of the lien and the lienholder remains liable for any obligations as lienholder until the assignee is named as lienholder on the certificate of title. The same rules apply to subsequent assignees of the original or subsequent assignees.

(b) An assignee may record the assignment of a lien recorded under Section 501.113 by:

(1) applying to the county assessor-collector for the assignee to be named as lienholder on the certificate of title ~~[assignment of the lien]~~; and

(2) notifying the debtor of the assignment.

(c) An assignee's ~~[(b) A lienholder's]~~ failure to make an application under Subsection (b) or notify a debtor of an assignment does not create a cause of action against the assignee or the lienholder or affect the validity or perfection of the lien assigned to the assignee.

(d) ~~[(c)]~~ An application under Subsection (b) ~~[(a)]~~ must be:

(1) signed by the person to whom the lien is assigned; and

(2) accompanied by:

(A) the applicable fee;

(B) a copy of the assignment agreement executed by the parties; and

(C) the certificate of title on which the lien to be assigned is recorded.

(e) [~~(d)~~] On receipt of the completed application and fee, the department:

(1) may amend the department's records to substitute the subsequent lienholder for the previous lienholder; and

(2) shall issue a new certificate of title as provided by Section 501.027.

(f) [~~(e)~~] The issuance of a certificate of title under Subsection (e) [~~(d)~~] is recordation of the assignment. The time of the recordation of a lien assigned under this section is considered to be the time the lien was recorded under Section 501.113.

SECTION 5. This Act is intended to clarify rather than change existing law.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.