

By: Harris

S.B. No. 1661

A BILL TO BE ENTITLED

AN ACT

relating to child support liens on real property.

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

SECTION 1. Subchapter G, Chapter 157, Family Code, is amended by adding Section 157.3171 to read as follows:

Sec. 157.3171. RELEASE OF LIEN ON HOMESTEAD PROPERTY.

(a) An obligor who believes that a child support lien has attached to real property of the obligor that is the obligor's homestead, as defined by Section 41.002, Property Code, may file an affidavit to release the lien against the homestead in the same manner that a judgment debtor may file an affidavit under Section 52.0012, Property Code, to release a judgment lien against a homestead.

(b) Except as provided by Subsection (c), the obligor must comply with all requirements imposed by Section 52.0012, Property Code. For purposes of complying with that section, the obligor is considered to be a judgment debtor under that section and the claimant under the child support lien is considered to be a judgment creditor under that section.

(c) For purposes of Section 52.0012(d)(2), Property Code, and the associated text in the affidavit required by Section 52.0012(f), Property Code, the obligor is required only to send the letter and affidavit described in those provisions to the claimant under the child support lien at the claimant's last known address.

(d) The claimant under the child support lien may dispute

1 the obligor's affidavit by filing a contradicting affidavit in the
2 manner provided by Section 52.0012(e), Property Code.

3 (e) Subject to Subsection (f), an affidavit filed by an
4 obligor under this section has the same effect with respect to a
5 child support lien as an affidavit filed under Section 52.0012,
6 Property Code, has with respect to a judgment lien.

7 (f) If the claimant files a contradicting affidavit as
8 described by Subsection (d), the issue of whether the real property
9 is subject to the lien must be resolved in an action brought for
10 that purpose in the district court of the county in which the real
11 property is located and the lien was filed.

12 SECTION 2. Section 157.318, Family Code, is amended by
13 amending Subsection (a) and adding Subsection (d) to read as
14 follows:

15 (a) Subject to Subsection (d), a [A] lien is effective until
16 all current support and child support arrearages, including
17 interest, any costs and reasonable attorney's fees, and any Title
18 IV-D service fees authorized under Section 231.103 for which the
19 obligor is responsible, have been paid or the lien is otherwise
20 released as provided by this subchapter.

21 (d) A lien is effective with respect to real property until
22 the 10th anniversary of the date on which the lien notice was filed
23 with the county clerk. A lien subject to the limitation prescribed
24 by this subsection may be renewed for subsequent 10-year periods by
25 filing a renewed lien notice in the same manner as the original lien
26 notice. For purposes of establishing priority, a renewed lien
27 notice filed before the applicable 10th anniversary relates back to

1 the date the original lien notice was filed. A renewed lien notice
2 filed on or after the applicable 10th anniversary has priority over
3 any other lien recorded with respect to the real property only on
4 the basis of the date the renewed lien notice is filed.

5 SECTION 3. Subsection (h), Section 231.002, Family Code, is
6 repealed.

7 SECTION 4. The changes in law made by this Act to Section
8 157.318, Family Code, apply only to a child support lien notice that
9 is filed on or after the effective date of this Act.

10 SECTION 5. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2009.