

BILL ANALYSIS

S.B. 428
By: Huffman
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Judgment creditors may seek enforcement of a foreign judgment (one from any court of the United States or any other court entitled to full faith and credit in Texas) under the Texas Civil Practice and Remedies Code.

Currently, at the time a foreign judgment is filed, the judgment creditor or the judgment creditor's attorney must file an affidavit with the clerk of the court showing the last known postal address of the judgment debtor and the judgment creditor.

Once the creditor files this affidavit, the clerk must promptly mail notice of the filing of a foreign judgment to the judgment debtor. This is noted in the court's docket sheet.

S.B. 428 eases the administrative workload of court clerks by requiring the creditor, rather than the clerk of the court, to mail notice to the judgment debtor. The creditor would then file "proof of notice" with the clerk, to be placed with the docket sheet. This effectively puts the responsibility of mailing of judgment on the party seeking to enforce the foreign judgment.

As proposed, S.B. 428 amends current law relating to notice to a judgment debtor of the filing of a foreign judgment.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 35.004, Civil Practice and Remedies Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires the judgment creditor or the judgment creditor's attorney to promptly mail notice of the filing of the foreign judgment to the judgment debtor at the address provided for the judgment debtor under Subsection (a), and file proof of mailing of the notice with the clerk of the court, rather than requires the clerk to promptly mail the notice of filing of the foreign judgment to the judgment debtor at the address given and to note the mailing in the docket.

(d) Requires the clerk of the court, on receipt of proof of mailing under Subsection (b), to note the mailing in the docket.

SECTION 2. Repealer: Section 35.005 (Alternate Notice of Filing--Judgment Creditor), Civil Practice and Remedies Code.

EFFECTIVE DATE

Upon passage or September 1, 2011.