

## **BILL ANALYSIS**

S.B. 539  
By: Carona  
Business & Industry  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, a judge has discretion regarding the award of costs and reasonable attorney's fees to the prevailing party in a successful suit to foreclose on a mechanic's or materialman's lien or to enforce a claim against a construction-related bond or to declare a lien or claim to be invalid or unenforceable. Some recent court cases have held that a mechanic's or materialman's lien holder who forecloses on a lien or bond is not entitled to court costs or reasonable attorney's fees.

S.B. 539 seeks to ensure that a successful party recovers reasonable costs after having to go through the expense of bringing an action by requiring a judge to award costs and reasonable attorney's fees to the prevailing party in a suit to foreclose on a mechanic's or materialman's lien or a claim against a construction-related bond.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 539 amends the Property Code to require, rather than authorize, a court to award costs and reasonable attorney's fees as are equitable and just in any proceeding to foreclose a lien or to enforce a claim against a bond, or to declare that any lien or claim is invalid or unenforceable in whole or in part, under the law governing mechanic's, contractor's, or materialman's liens.

### **EFFECTIVE DATE**

September 1, 2011.