

BILL ANALYSIS

Senate Research Center

S.B. 1187
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Jurisprudence
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, a *lis pendens* (which is a Latin term that effectively means a legal notice has been filed on record to signify that a given piece of property is the subject of a lawsuit) can be filed and effective without giving the public the opportunity to actually see the notice, or know that the notice exists.

S.B. 1187 makes a *lis pendens* effective once the notice is indexed in the public record and available for public access. This will establish protection for the innocent purchaser who had no means of possessing actual knowledge of the *lis pendens*.

This law change creates consistency with the notice statute for a judgment lien (Section 52.001 (Establishment of Lien), Property Code) which is established when it is recorded and indexed.

S.B. 1187 amends current law relating to the effect of indexing notices of *lis pendens*.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 13.004, Property Code, as follows:

Sec. 13.004. EFFECT OF RECORDING LIS PENDENS. (a) Provides that a recorded *lis pendens* is notice to the world of its contents. Provides that the notice is effective from the time it is filed for record and indexed as provided by Section 12.007(c) (relating to requiring the county clerk to record the notice in a *lis pendens* record and index the record in a direct and reverse index under the name of each party to the proceeding), regardless of whether service has been made on the parties to the proceeding.

(b) Provides that a transfer or encumbrance of real property involved in a proceeding by a party to the proceeding to a third party who has paid a valuable consideration and who does not have actual or constructive notice of the proceeding is effective, even though the judgment is against the party transferring or encumbering the property, unless a notice of the pendency of the proceeding has been recorded and indexed under that party's name as provided by Section 12.007(c) in each county in which the property is located.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.