

A BILL TO BE ENTITLED

AN ACT

relating to clarifying liability and damages for certain liens placed on and certain court records of real property.

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

SECTION 1. Section 12.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 12.001. DEFINITIONS. In this chapter:

(1) "Court record" has the meaning assigned by Section 37.01, Penal Code.

(2) "Exemplary damages" has the meaning assigned by Section 41.001 and includes any amount awarded under Section 12.002(b)(1)(A) in excess of actual economic damages.

(3) [~~2-a~~] "Filing office" has the meaning assigned by Section 9.102, Business & Commerce Code.

(4) [~~2-b~~] "Financing statement" has the meaning assigned by Section 9.102, Business & Commerce Code.

(5) "Fraud" means a knowing misrepresentation or concealment of a material fact made to induce another to act to that person's detriment.

(6) "Fraudulent lien" means a lien that is created by fraud and filed or recorded without the consent of the person whose property is encumbered by the lien.

(7) [~~2-c~~] "Inmate" means a person housed in a secure correctional facility.

1 (8) [~~(3)~~] "Lien" means a claim in property for the
2 payment of a debt and includes a security interest.

3 (9) [~~(4)~~] "Public servant" has the meaning assigned by
4 Section 1.07, Penal Code, and includes officers and employees of
5 the United States.

6 (10) [~~(5)~~] "Secure correctional facility" has the
7 meaning assigned by Section 1.07, Penal Code.

8 SECTION 2. Section 12.002, Civil Practice and Remedies
9 Code, is amended by amending Subsection (b) and adding Subsections
10 (b-1), (b-2), and (b-3) to read as follows:

11 (b) A person who violates Subsection (a) or (a-1) is liable
12 to each injured person for:

13 (1) the greater of:
14 (A) \$10,000; or
15 (B) the actual economic damages caused by the
16 violation;

17 (2) court costs;

18 (3) reasonable attorney's fees; and

19 (4) exemplary damages in an amount determined by the
20 court.

21 (b-1) Notwithstanding any other provision of this chapter,
22 multiple persons with an interest in a single property subject to a
23 fraudulent lien shall be treated as a single person for purposes of
24 calculating total damages.

25 (b-2) Notwithstanding any other provision of this chapter,
26 multiple persons that jointly file a single fraudulent lien shall
27 be treated as a single person for purposes of calculating total

1 damages.

2 (b-3) When an award made as provided by Subsection (b)(1)(A)
3 exceeds the actual economic damages caused by the violation,
4 damages may not be awarded under Subsection (b)(4).

5 SECTION 3. Section 12.003, Civil Practice and Remedies
6 Code, is amended by amending Subsection (a) and adding Subsection
7 (a-1) to read as follows:

8 (a) The following persons may bring an action to enjoin
9 violation of this chapter [~~or to recover damages under this~~
10 ~~chapter~~]:

- 11 (1) the attorney general;
- 12 (2) a district attorney;
- 13 (3) a criminal district attorney;
- 14 (4) a county attorney with felony responsibilities;
- 15 (5) a county attorney;
- 16 (6) a municipal attorney;
- 17 (7) in the case of a fraudulent judgment lien, the
18 person against whom the judgment is rendered; and
- 19 (8) in the case of a fraudulent lien or claim against
20 real or personal property or an interest in real or personal
21 property, the obligor or debtor, or a person who owns an interest in
22 the real or personal property.

23 (a-1) The persons described by Subsections (a)(7) and (8)
24 may also bring an action to recover damages under this chapter. The
25 persons described by Subsections (a)(1) through (6) may also bring
26 an action to recover damages on behalf of any person described by
27 Subsection (a)(7) or (8).

1 SECTION 4. Chapter 12, Civil Practice and Remedies Code, is
2 amended by adding Section 12.008 to read as follows:

3 Sec. 12.008. FOUR-YEAR LIMITATIONS PERIOD. (a) A person
4 must bring suit under this chapter not later than four years after
5 the date the cause of action accrues.

6 (b) A cause of action under this chapter accrues on the
7 earlier of:

8 (1) the date the fraud is or by the exercise of
9 reasonable diligence should have been discovered; or

10 (2) the date that property subject to a fraudulent
11 lien or court record is conveyed.

12 (c) Notwithstanding Subsection (a), a person must bring
13 suit for damages under this chapter not later than 10 years after
14 the date the fraudulent lien or court record was recorded.

15 SECTION 5. This Act is intended to clarify existing law with
16 respect to which fines may be imposed and which persons are entitled
17 to receive damages for actions under Chapter 12, Civil Practice and
18 Remedies Code.

19 SECTION 6. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2013.