

1-1 By: Carona S.B. No. 693  
 1-2 (In the Senate - Filed February 20, 2013;  
 1-3 February 25, 2013, read first time and referred to Committee on  
 1-4 State Affairs; April 16, 2013, reported adversely, with favorable  
 1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;  
 1-6 April 16, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13			X	
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 693 By: Nichols

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to clarifying liability and damages for certain liens  
 1-22 placed on and certain court records of real property.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 12.001, Civil Practice and Remedies  
 1-25 Code, is amended to read as follows:

1-26 Sec. 12.001. DEFINITIONS. In this chapter:

1-27 (1) "Court record" has the meaning assigned by Section  
 1-28 37.01, Penal Code.

1-29 (2) "Exemplary damages" has the meaning assigned by  
 1-30 Section 41.001 and includes any amount awarded under Section  
 1-31 12.002(b)(1)(A) in excess of actual economic damages.

1-32 (3) [~~(2-a)~~] "Filing office" has the meaning assigned  
 1-33 by Section 9.102, Business & Commerce Code.

1-34 (4) [~~(2-b)~~] "Financing statement" has the meaning  
 1-35 assigned by Section 9.102, Business & Commerce Code.

1-36 (5) "Fraudulent lien" means a lien that is created by  
 1-37 fraud and filed or recorded without the consent of the person whose  
 1-38 property is encumbered by the lien.

1-39 (6) "Injured person" means a person who has sustained  
 1-40 actual economic damages as a result of a violation of Section  
 1-41 12.002(a) or (a-1).

1-42 (7) [~~(2-c)~~] "Inmate" means a person housed in a secure  
 1-43 correctional facility.

1-44 (8) [~~(3)~~] "Lien" means a claim in property for the  
 1-45 payment of a debt and includes a security interest.

1-46 (9) [~~(4)~~] "Public servant" has the meaning assigned by  
 1-47 Section 1.07, Penal Code, and includes officers and employees of  
 1-48 the United States.

1-49 (10) [~~(5)~~] "Secure correctional facility" has the  
 1-50 meaning assigned by Section 1.07, Penal Code.

1-51 SECTION 2. Section 12.002, Civil Practice and Remedies  
 1-52 Code, is amended by amending Subsection (b) and adding Subsections  
 1-53 (b-1), (b-2), and (b-3) to read as follows:

1-54 (b) A person who violates Subsection (a) or (a-1) is liable  
 1-55 to the ~~each~~ injured person for:

1-56 (1) the greater of:

1-57 (A) \$10,000; or

1-58 (B) the actual economic damages caused by the  
 1-59 violation;

1-60 (2) court costs;

2-1 (3) reasonable attorney's fees; and  
2-2 (4) exemplary damages in an amount determined by the  
2-3 court.

2-4 (b-1) Notwithstanding any other provision of this chapter,  
2-5 multiple persons with an interest in a single property subject to a  
2-6 fraudulent lien shall be treated as a single person for purposes of  
2-7 calculating total damages, except that the calculation of actual  
2-8 economic damages under Subsection (b)(1)(B) must include the sum of  
2-9 actual economic damages suffered by each person with an interest in  
2-10 the property.

2-11 (b-2) Notwithstanding any other provision of this chapter,  
2-12 multiple persons that jointly file a single fraudulent lien shall  
2-13 be treated as a single person for purposes of calculating total  
2-14 damages.

2-15 (b-3) When an award made as provided by Subsection (b)(1)(A)  
2-16 exceeds the actual economic damages caused by the violation,  
2-17 damages may not be awarded under Subsection (b)(4).

2-18 SECTION 3. Section 12.003, Civil Practice and Remedies  
2-19 Code, is amended by amending Subsection (a) and adding Subsection  
2-20 (a-1) to read as follows:

2-21 (a) The following persons may bring an action to enjoin  
2-22 violation of this chapter [~~or to recover damages under this~~  
2-23 ~~chapter~~]:

- 2-24 (1) the attorney general;
- 2-25 (2) a district attorney;
- 2-26 (3) a criminal district attorney;
- 2-27 (4) a county attorney with felony responsibilities;
- 2-28 (5) a county attorney;
- 2-29 (6) a municipal attorney;
- 2-30 (7) in the case of a fraudulent judgment lien, the  
2-31 person against whom the judgment is rendered; and

2-32 (8) in the case of a fraudulent lien or claim against  
2-33 real or personal property or an interest in real or personal  
2-34 property, the obligor or debtor at the time the action is commenced,  
2-35 or a person who owns an interest in the real or personal property at  
2-36 the time the action is commenced.

2-37 (a-1) The persons described by Subsections (a)(7) and (8)  
2-38 may also bring an action to recover damages under this chapter. The  
2-39 persons described by Subsections (a)(1) through (6) may also bring  
2-40 an action to recover damages on behalf of any person described by  
2-41 Subsection (a)(7) or (8).

2-42 SECTION 4. Chapter 12, Civil Practice and Remedies Code, is  
2-43 amended by adding Section 12.008 to read as follows:

2-44 Sec. 12.008. FOUR-YEAR LIMITATIONS PERIOD. (a) A person  
2-45 must bring suit under this chapter not later than four years after  
2-46 the date the cause of action accrues.

2-47 (b) A cause of action under this chapter accrues on the  
2-48 earlier of:

- 2-49 (1) the date the fraud is or by the exercise of  
2-50 reasonable diligence should have been discovered;
- 2-51 (2) the date that property subject to a fraudulent  
2-52 lien or court record is conveyed if the conveyance occurs after the  
2-53 date the fraudulent lien is first recorded; or
- 2-54 (3) the date the fraudulent lien is released.

2-55 SECTION 5. This Act is intended to clarify existing law with  
2-56 respect to which fines may be imposed and which persons are entitled  
2-57 to receive damages for actions under Chapter 12, Civil Practice and  
2-58 Remedies Code.

2-59 SECTION 6. This Act takes effect immediately if it receives  
2-60 a vote of two-thirds of all the members elected to each house, as  
2-61 provided by Section 39, Article III, Texas Constitution. If this  
2-62 Act does not receive the vote necessary for immediate effect, this  
2-63 Act takes effect September 1, 2013.

2-64 \* \* \* \* \*