

BILL ANALYSIS

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S.B. 1133
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When an aircraft owner consistently fails to meet his or her contractual payment obligations, a lender may choose to settle the default status of the loan by repossessing the aircraft. Although the repossession process of an aircraft is often peaceful, former aircraft owners may become hostile to having their aircraft seized. The lack of cooperation by aircraft owners can be as small as a refusal to provide access but as great as physical aggression. Should a former aircraft owner become uncooperative, the general protocol for a repossession agent is to avoid confrontation, which may inefficiently drag out the process for weeks. In some cases, repossession agents are rushed to complete the process, causing them to go as far as jumping fences and hotwiring aircraft in order to fly away. Interested parties contend that this method of repossessing an aircraft presents a risk to the agent and to the public. Specifically, in the rush to remove an aircraft from an airfield, the agent may be unable to perform the necessary pre-flight safety checks.

Interested parties contend that those engaged in lawful repossession of an aircraft should use a process that allows for the safe transfer of the vehicle. As introduced, S.B. 1133 offers repossession agents the option of petitioning for a writ of assistance, authorizing a peace officer to escort an agent while the agent secures an aircraft or inspects it for mechanical safety. S.B. 1133 provides that this writ of assistance be valid for 30 days, with extensions available at the discretion of a justice court.

As proposed, S.B. 1133 amends current law relating to the repossession of an aircraft.

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 Title 4, Property Code, by adding Chapter 30, as follows:

CHAPTER 30. WRIT OF ASSISTANCE FOR REPOSSESSION OF AIRCRAFT

Sec. 30.01. DEFINITIONS. Defines "aircraft," "repossession," and "repossession agent" in this chapter.

Sec. 30.02. WRIT OF ASSISTANCE FOR REPOSSESSION OF AIRCRAFT. (a) Provides that a writ of assistance for the repossession of an aircraft authorizes a peace officer to assist and protect a repossession agent in gaining possession of the aircraft while the agent:

- (1) secures the aircraft on site; or
- (2) prepares the aircraft, which may include a mechanical inspection, for removal from the site by flight or otherwise to another location.

(b) Provides that a writ of assistance for the repossession of an aircraft is valid for 30 days.

(c) Authorizes a justice court to grant unlimited extensions of a writ of assistance issued under this chapter.

Sec. 30.03. PETITION FOR WRIT OF ASSISTANCE. (a) Authorizes a repossession agent to file a petition in a justice court for a writ of assistance for the repossession of an aircraft.

(b) Entitles the repossession agent to the writ if the repossession agent establishes that:

(1) the aircraft is subject to the proposed repossession; and

(2) the repossession agent is authorized to engage in the repossession.

(c) Requires that the petition for the writ include a copy of:

(1) the security agreement relating to the aircraft;

(2) the notice of default under the security agreement sent by the lender to the borrower;

(3) the instrument in which a power of attorney for the repossession is granted to the repossession agent by the lender; and

(4) the results of a title search of the Federal Aviation Administration's records for the aircraft.

SECTION 2. Effective date: September 1, 2015.