

BILL ANALYSIS

Senate Research Center
83R5847 CJC-F

S.B. 1606
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Finance
4/12/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When a taxing entity attempts to collect unpaid property taxes from a business, such as during bankruptcy, it is authorized to attach a lien to all inventory, furniture, equipment, and other property the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires. In almost all cases this lien is never executed because the cost associated with seizing, storing, and selling the property usually exceeds the resources and capacities of the taxing entity. Instead the entity attaches the lien to lay claim to a judgment from bankruptcy proceedings.

Texas statute is silent as to whether such property must be located within the territory of the taxing district when the lien attaches automatically on January 1. While this historically was interpreted as to apply to any property belonging to the property owner, a 2012 bankruptcy court decision created a potential loophole by ruling that the property must reside within the taxing entity's jurisdiction. This could lead to delinquent or soon-to-be bankrupt property owners moving their property outside the district to evade the attachment of a lien.

S.B. 1606 clarifies that this lien attaches on property irrespective of whether the property is located within the boundaries of the taxing unit in whose favor the lien attaches. This will close the potential loophole opened up by the 2012 bankruptcy court ruling.

As proposed, S.B. 1606 amends current law relating to ad valorem tax liens on personal property.

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 32.01(b), Tax Code, to provide that a tax lien on inventory, furniture, equipment, or other personal property is a lien in solido and attaches to all inventory, furniture, equipment, and other personal property that the property owner owns on January 1 of the year the lien attaches or that the property owner subsequently acquires, irrespective of whether the personal property is located within the boundaries of the taxing unit in whose favor the lien attaches.

SECTION 2. Effective date: upon passage or September 1, 2013.