

BILL ANALYSIS

Senate Research Center

H.B. 669
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Jurisprudence
5/11/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 75th Legislature, Regular Session, 1997, a bill was enacted that created criminal penalties for filing fraudulent court documents. This included filing a fraudulent court record, or a fraudulent lien, or claim against real or personal property, or an interest in personal or real property. The potential liability for such an offense was \$10,000, plus exemplary damages.

The \$10,000 liability for filing a false lien often dissuades contractors and others seeking to collect an unpaid debt. The potential loss for making a simple, honest, clerical mistake is reason enough to not risk filing the lien. This bill removes that excessive liability for liens filed in good faith.

H.B. 669 amends current law relating to liability arising out of the filing of a mechanic's, contractor's, or materialman's lien.

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 12.002, Civil Practice and Remedies Code, by adding Subsection (c) to provide that a person claiming a lien under Chapter 53 (Mechanic's, Contractor's, or Materialman's Lien), Property Code, is not liable under this section for the making, presentation, or use of a document or other record in connection with the assertion of the claim unless the person acts with intent to defraud.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009