

H.B. No. 2566

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

5 SECTION 1. Section 12.001, Civil Practice and Remedies  
6 Code, is amended by adding Subdivisions (2-a), (2-b), (2-c), and  
7 (5) to read as follows:

16 SECTION 2. Section 12.002, Civil Practice and Remedies  
17 Code, is amended by adding Subsections (a-1) and (a-2) and amending  
18 Subsection (b) to read as follows:

1     Insurance Code, and is filing on behalf of another person who the  
2     person knows is an inmate.

3             (a-2) A person described by Subsection (a-1) may file an  
4     abstract, instrument, or financing statement described by that  
5     subsection if the document being filed includes a statement  
6     indicating that:

7                 (1) the person filing the document is an inmate; or  
8                 (2) the person is filing the document on behalf of a  
9     person who is an inmate.

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

12                 (1) the greater of:  
13                     (A) \$10,000; or  
14                     (B) the actual damages caused by the violation;  
15                 (2) court costs;  
16                 (3) reasonable attorney's fees; and  
17                 (4) exemplary damages in an amount determined by the  
18     court.

19             SECTION 3. Section 51.901, Government Code, is amended by  
20     amending Subsection (c) and adding Subsections (e) and (f) to read  
21     as follows:

22             (c) For purposes of this section, a document or instrument  
23     is presumed to be fraudulent if:

24                 (1) the document is a purported judgment or other  
25     document purporting to memorialize or evidence an act, an order, a  
26     directive, or process of:

27                     (A) a purported court or a purported judicial

1 entity not expressly created or established under the constitution  
2 or the laws of this state or of the United States; or

3 (B) a purported judicial officer of a purported  
4 court or purported judicial entity described by Paragraph (A); ~~[or]~~

5 (2) the document or instrument purports to create a  
6 lien or assert a claim against real or personal property or an  
7 interest in real or personal property and:

8 (A) is not a document or instrument provided for  
9 by the constitution or laws of this state or of the United States;

10 (B) is not created by implied or express consent  
11 or agreement of the obligor, debtor, or the owner of the real or  
12 personal property or an interest in the real or personal property,  
13 if required under the laws of this state, or by implied or express  
14 consent or agreement of an agent, fiduciary, or other  
15 representative of that person; or

16 (C) is not an equitable, constructive, or other  
17 lien imposed by a court with jurisdiction created or established  
18 under the constitution or laws of this state or of the United  
19 States; or

20 (3) the document or instrument purports to create a  
21 lien or assert a claim against real or personal property or an  
22 interest in real or personal property and the document or  
23 instrument is filed by an inmate or on behalf of an inmate.

24 (e) A presumption under Subsection (c)(3) may be rebutted by  
25 providing the filing officer in the filing office in which the  
26 document is filed or recorded the original or a copy of a sworn and  
27 notarized document signed by the obligor, debtor, or owner of the

1       property designated as collateral stating that the person entered  
2       into a security agreement with the inmate and authorized the filing  
3       of the financing statement as provided by Section 9.509, Business &  
4       Commerce Code.

5               (f)    In this section:

6               (1)    "Inmate" means a person housed in a secure  
7       correctional facility.

8               (2)    "Secure correctional facility" has the meaning  
9       assigned by Section 1.07, Penal Code.

10               SECTION 4.   Section 405.021, Government Code, as added by  
11       Chapter 407, Acts of the 79th Legislature, Regular Session, 2005,  
12       is amended to read as follows:

13               Sec. 405.021.   FILING   OR   RECORDING   OF   FRAUDULENT  
14       DOCUMENT.   (a)   If the secretary of state believes in good faith  
15       that a document filed with the secretary of state to create a lien  
16       is fraudulent, the secretary of state shall:

17               (1)    request the assistance of the attorney general to  
18       determine whether the document is fraudulent before filing or  
19       recording the document;

20               (2)    request that the prospective filer provide to the  
21       secretary of state additional documentation supporting the  
22       existence of the lien, such as a contract or other document that  
23       contains the alleged debtor or obligor's signature; and

24               (3)    forward any additional documentation received to  
25       the attorney general.

26               (b)    For purposes of this section, a document or instrument  
27       is presumed to be fraudulent if the document or instrument is filed

1       by an inmate or on behalf of an inmate.

2           (c) A presumption under Subsection (b) may be rebutted by  
3       providing the secretary of state the original or a copy of a sworn  
4       and notarized document signed by the obligor, debtor, or owner of  
5       the property designated as collateral stating that the person  
6       entered into a security agreement with the inmate and authorized  
7       the filing of the instrument as provided by Section 9.509, Business  
8       & Commerce Code.

9           (d) In this section:

10            (1) "Inmate" means a person housed in a secure  
11       correctional facility.

12            (2) "Secure correctional facility" has the meaning  
13       assigned by Section 1.07, Penal Code.

14           SECTION 5. The change in law made by this Act applies only  
15       to a document or instrument presented for recording on or after the  
16       effective date of this Act. A document or instrument presented for  
17       recording before the effective date of this Act is covered by the  
18       law in effect when the document or instrument was presented for  
19       recording, and the former law is continued in effect for that  
20       purpose.

21           SECTION 6. This Act takes effect September 1, 2007.

H.B. No. 2566

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President of the Senate

Speaker of the House

I certify that H.B. No. 2566 was passed by the House on May 10, 2007, by the following vote: Yeas 144, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2566 on May 25, 2007, by the following vote: Yeas 139, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2566 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor