

SUBJECT: Allowing partial owners of real property to pay off judgments

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 5 ayes — Bosse, Hope, Nixon, Smithee, Zbranek

0 nays

4 absent — Janek, Alvarado, Dutton, Goodman

SENATE VOTE: On final passage, April 30 — voice vote

WITNESSES: None

DIGEST: SB 378 would allow a partial owner of real property that was subject to an abstract of judgment or a judgment lien to pay a court for the partial release of the judgment if, after the partial owner provided extensive notice detailed in the bill, the judgment creditor did not respond within 15 days after the date the notice was sent. The court would have to hold the payment in trust for the judgment creditor, and the payment would revert to the state after a certain time set by the Property Code. A purchaser or lender for value could take title to the owner's interest free and clear after partial release of the judgment.

The bill would take effect September 1, 1999, and would apply to the payment of judgments for which the required notice was given on or after that date.

SUPPORTERS SAY: SB 378 would clear up ambiguity that now surrounds several aspects of judgments against partial owners of real property. Often this happens when someone dies and there is an abstract of judgment or a judgment lien against one of the heirs. That judgment can lock up the estate and prevent its sale by the other heirs. This bill would protect the other partial owners of the real property and would allow them to sell the real property without being hindered by a judgment against one of the partial owners.

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OPPONENTS      No apparent opposition.  
SAY: