

SUBJECT: Providing certain judgment creditors with right to hearing and receiver

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 5 ayes — Leach, Krause, Middleton, Schofield, Smith

3 nays — Davis, Julie Johnson, Moody

1 absent — Dutton

WITNESSES: For — Michael Scott and Craig Noack, Texas Creditors Bar Association

Against — Ann Baddour, Texas Appleseed

On — Briana Stone, Texas Access to Justice Commission

BACKGROUND: Under Civil Practice and Remedies Code sec. 31.002, a judgment creditor is entitled to aid from a court of appropriate jurisdiction through injunction or other means in order to reach property to obtain satisfaction on the judgment if the judgment debtor owns property that is not exempt from attachment, execution, or seizure for the satisfaction of liabilities.

The aid that the court is authorized to provide includes:

- ordering the judgment debtor to turn over nonexempt property as specified in the code to a designated sheriff or constable for execution;
- otherwise applying the property to the satisfaction of the judgment; or
- appointing a receiver with the authority to take possession of the nonexempt property, sell it, and pay the proceeds to the judgment creditor to the extent required to satisfy the judgment.

There have been calls to entitle parties that have been unsuccessful in attempts to collect a judgment to a hearing with a court for further assistance in collecting the judgment and to the appointment of a receiver.

DIGEST:

CSHB 2918 would specify that if a judgment creditor had attempted to satisfy a judgment and the final money judgment remained unsatisfied, the creditor would be entitled to a hearing on the creditor's motion for the court's assistance in obtaining satisfaction on the judgment. If notice of the hearing was provided to the judgment debtor, the court would have to appoint a receiver to enforce the judgment, unless the judgment debtor appeared and asserted an applicable exemption.

The bill also would authorize a court to issue an order without requiring the judgment creditor to prove the existence of specific property.

The bill would take effect September 1, 2021, and would apply to the collection of any judgment, regardless of whether the judgment was entered before, on or after that date.