

BILL ANALYSIS

Senate Research Center
76R12605 DAK-F

H.B. 2101
By: Pitts (Ellis)
Jurisprudence
5/13/1999
Engrossed

DIGEST

Under current law, a judgment creditor is not required to provide information to a financial institution before the institution turns over assets of a judgment debtor to the judgment creditor. There is concern that problems may arise between the financial institution and its customer, due to the threat of sanctions from the judgment creditors for noncompliance. H.B. 2101 requires a financial institution to be provided, and authorizes it to rely on, a certified copy of the order or injunction of the court, or a certified copy of the order of appointment of a receiver, if the institution receives a request to turn over assets or financial information of a judgment debtor to a judgment creditor or a receiver under a turnover order or receivership order. It also entitles a compliant financial institution to recover certain reasonable costs, including reasonable attorney's fees, if contested.

PURPOSE

As proposed, HB. 2101 requires a financial institution to be provided, and authorizes it to rely on, a certified copy of the order or injunction of the court, or a certified copy of the order of appointment of a receiver, if the institution receives a request to turn over assets or financial information of a judgment debtor to a judgment creditor or a receiver under a turnover order or receivership order. It also entitles a compliant financial institution to recover certain reasonable costs, including reasonable attorney's fees, if contested.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 31, Civil Practice and Remedies Code, by adding Section 31.010, as follows:

Sec. 31.010. TURNOVER BY FINANCIAL INSTITUTION. Requires a financial institution that receives a request to turn over assets or financial information of a judgment debtor to a judgment creditor or a receiver under a turnover order or receivership under Section 31.002 (Collection of Judgment Through Court Proceeding) to be provided, and provides that the institution may rely on: a certified copy of the order or injunction of the court; or a certified copy of the order of appointment of a receiver under Section 64.001 (Availability of Remedy), including any document establishing the qualifications of the receiver under Section 64.021 (Qualifications; Residence Requirement), the sworn affidavit under Section 64.022 (Oath), and the bond under Section 64.023 (Bond). Provides that a financial institution that complies with this section is not liable to certain entities for compliance with a court order, injunction, or receivership authorized by Section 31.002. Entitles a financial institution that complies with this section to recover certain reasonable costs, including reasonable attorney's fees, if there is a contest. Defines "financial institution" for the purposes of this section.

SECTION 2. Effective date: September 1, 1999. Makes application of this Act prospective.

SECTION 3. Emergency clause.