

BILL ANALYSIS

Senate Research Center

S.B. 378
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Jurisprudence
4/13/1999
As Filed

DIGEST

Currently, there is ambiguity regarding several aspects of judgments against the partial owner, rather than the other owners of property. Significant and confusing legal questions regarding property titles can result when the other property owners attempt to sell their property, when an owner dies without a will, and when heirs have any outstanding pending judgements. S.B. 378 regulates the payment of judgment against an undivided interest in real property.

PURPOSE

As proposed, S.B. 378 regulates the payment of judgment against an undivided interest in real property, and describes the responsibilities of the owner of an undivided interest in real property and a judgment creditor regarding the logistics of correspondence regarding this matter.

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 31.009, as follows:

Sec. 31.009. PAYMENT OF JUDGMENT AGAINST UNDIVIDED INTEREST IN REAL PROPERTY. Sets forth the circumstances to which this section applies. Requires the owner of undivided interest in real property (owner) to follow a certain procedure for sending a letter notifying the judgment creditor (creditor) of the judgment, before the owner is entitled to take certain action. Sets forth the required contents of the letter. Authorizes the owner to file certain documents and payment with the court that rendered a judgment lien, if the creditor fails to respond to the letter by a certain date. Requires the owner to follow a certain procedure for sending an affidavit to the creditor and the creditor's last attorney. Requires the owner to prepare a recordable release of the judgment lien abstract describing the owner's undivided interest. Sets forth required language of the owner's release. Requires the judge to execute the release of the judgment lien on behalf of the creditor within a certain time frame, unless the judge determines the owner is not entitled to release. Sets forth the required content of the judge's release. Requires the court to hold the owner's payment in trust for the creditor. Requires the court clerk to administer and render interest earned from the owner's payment, to the creditor. Authorizes a purchaser or lender to rely on the partial release of a judgment lien and take title to the owner's undivided interest free and clear of the abstract of judgment lien. Provides that the purchaser or lender is not required to determine if the owner complies with this section. Describes "judgment creditor."

SECTION 2. (a) Effective date: September 1, 1999.

(b) Provides that this Act applies to the payment of judgments against undivided interests in real property, for which acceptable notice is given, before, on, or after September 1, 1999.

SECTION 3. Emergency clause.