

SUBJECT: Prohibiting the seizure of fine art works

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 7 ayes — Bosse, Janek, Alvarado, Dutton, Hope, Smithee, Zbranek
1 nay — Nixon
1 present, not voting — Goodman

WITNESSES: For — Elizabeth Ferrer, Austin Museum of Art
Against — None

DIGEST: CSHB 3081 would amend the Civil Practice and Remedies Code to prohibit a court from issuing or a person from executing any process or other kind of seizure on a work of fine art for one year from the date that it was en route to an exhibition. The bill would define “exhibition” as any exhibition under the auspices or supervision of a museum, a public or private higher education institution, or a nonprofit art gallery that was held for a cultural, charitable, or educational purpose and not for the profit of the exhibitor.

If a court did issue any process for any kind of seizure for a work of art, the court would be required, as part of its order, to ensure that the work was handled and transported in a manner that complied with accepted standards of the artistic community, including environmental conditions, maintenance, security, and insurance.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

SUPPORTERS SAY: In February 1998, 15 works by noted artist Robert Rauschenberg were seized from an exhibition in Houston on the day it was scheduled to open. The works were seized under an order for a judgment against the artist and were returned five days later upon an order issued by a Houston district court. While the seizure of property is generally a private matter, when an art work is seized from the walls of a public gallery or museum, it affects the public and the innocent museum or gallery. The Menil Collection in Houston spent

\$150,000 to exhibit the works and another \$1.1 million for transportation and related costs. The museum said that the seizure of the works also seriously damaged the museum's reputation in the art world.

When art works are seized, the real victims are the public who are denied access to art and the exhibitor who spends years planning and raising money for the event. Many museums and galleries are worried that the success of the Rauschenberg seizure — the dispute was settled slightly more than a month after the seizure — could prompt seizures of other exhibits, making it much more expensive to display traveling art exhibits.

CSHB 3081 is crafted narrowly to apply only for one year so that art on permanent exhibit would not be shielded from seizure. The bill also would provide that in event of a seizure order, the court would have to include appropriate orders to preserve the art under accepted standards.

OPPONENTS
SAY:

Judgment creditors should not be denied the ability to act on that judgment simply because the property subject to a seizure happens to be a work of art. There is no reason to protect a work of art from seizure over other property subject to seizure.

NOTES:

The committee substitute added the one-year limit for exemption from seizure and the requirement that a court include provisions for handling and transporting art works when it orders a seizure.

The companion bill, SB 668 by Lindsay, is pending before the Senate Jurisprudence Committee.