CIVIL PRACTICE AND REMEDIES CODE

TITLE 2. TRIAL, JUDGMENT, AND APPEAL

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 12. LIABILITY RELATED TO A FRAUDULENT COURT RECORD OR A FRAUDULENT LIEN OR CLAIM FILED AGAINST REAL OR PERSONAL PROPERTY

Sec. 12.001. DEFINITIONS. In this chapter:

(1) "Court record" has the meaning assigned by Section 37.01, Penal Code.

(2) "Exemplary damages" has the meaning assigned by Section 41.001.

(2-a) "Filing office" has the meaning assigned by Section 9.102, Business & Commerce Code.

(2-b) "Financing statement" has the meaning assigned by Section 9.102, Business & Commerce Code.

(2-c) "Inmate" means a person housed in a secure correctional facility.

(3) "Lien" means a claim in property for the payment of a debt and includes a security interest.

(4) "Public servant" has the meaning assigned by Section 1.07, Penal Code, and includes officers and employees of the United States.

(5) "Secure correctional facility" has the meaning assigned by Section 1.07, Penal Code.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 16, eff. May 21, 1997.
Renumbered from Civil Practice & Remedies Code Sec. 11.001 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(3), eff. Sept. 1, 1999.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 895 (H.B. 2566), Sec. 1, eff. September 1, 2007.

Sec. 12.002. LIABILITY. (a) A person may not make, present, or use a document or other record with:

(1) knowledge that the document or other record is a fraudulent court record or a fraudulent lien or claim against real or personal property or an interest in real or personal property;

(2) intent that the document or other record be given

the same legal effect as a court record or document of a court created by or established under the constitution or laws of this state or the United States or another entity listed in Section 37.01, Penal Code, evidencing a valid lien or claim against real or personal property or an interest in real or personal property; and

(3) intent to cause another person to suffer:

(A) physical injury;

(B) financial injury; or

(C) mental anguish or emotional distress.

(a-1) Except as provided by Subsection (a-2), a person may not file an abstract of a judgment or an instrument concerning real or personal property with a court or county clerk, or a financing statement with a filing office, if the person:

(1) is an inmate; or

(2) is not licensed or regulated under Title 11, Insurance Code, and is filing on behalf of another person who the person knows is an inmate.

(a-2) A person described by Subsection (a-1) may file an abstract, instrument, or financing statement described by that subsection if the document being filed includes a statement indicating that:

(1) the person filing the document is an inmate; or

(2) the person is filing the document on behalf of a person who is an inmate.

(b) A person who violates Subsection (a) or (a-1) is liable to each injured person for:

(1) the greater of:

(A) $10,000; or

(B) the actual damages caused by the violation;

(2) court costs;

(3) reasonable attorney's fees; and

(4) exemplary damages in an amount determined by the court.

(c) A person claiming a lien under Chapter 53, Property Code, is not liable under this section for the making, presentation, or use of a document or other record in connection with the assertion of the claim unless the person acts with intent

to defraud.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 16, eff. May 21, 1997. Renumbered from Civil Practice & Remedies Code Sec. 11.002 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(3), eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 895 (H.B. 2566), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1260 (H.B. 669), Sec. 1, eff. September 1, 2009.

Sec. 12.003. CAUSE OF ACTION. (a) The following persons may bring an action to enjoin violation of this chapter or to recover damages under this chapter:

(1) the attorney general;

(2) a district attorney;

(3) a criminal district attorney;

(4) a county attorney with felony responsibilities;

(5) a county attorney;

(6) a municipal attorney;

(7) in the case of a fraudulent judgment lien, the person against whom the judgment is rendered; and

(8) in the case of a fraudulent lien or claim against real or personal property or an interest in real or personal property, the obligor or debtor, or a person who owns an interest in the real or personal property.

(b) Notwithstanding any other law, a person or a person licensed or regulated by Title 11, Insurance Code (the Texas Title Insurance Act), does not have a duty to disclose a fraudulent, as described by Section 51.901(c), Government Code, court record, document, or instrument purporting to create a lien or purporting to assert a claim on real property or an interest in real property in connection with a sale, conveyance, mortgage, or other transfer of the real property or interest in real property.

(c) Notwithstanding any other law, a purported judgment lien or document establishing or purporting to establish a judgment lien against property in this state, that is issued or purportedly issued by a court or a purported court other than a court

established under the laws of this state or the United States, is void and has no effect in the determination of any title or right to the property.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 16, eff. May 21, 1997.

Renumbered from Civil Practice & Remedies Code Sec. 11.003 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(3), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.104, eff. September 1, 2005.

Sec. 12.004. VENUE. An action under this chapter may be brought in any district court in the county in which the recorded document is recorded or in which the real property is located.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 16, eff. May 21, 1997.

Renumbered from Civil Practice & Remedies Code Sec. 11.004 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(3), eff. Sept. 1, 1999.

Sec. 12.005. FILING FEES. (a) The fee for filing an action under this chapter is the fee that generally applies to the filing of a civil case.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(a)(1), eff. January 1, 2022.

(c) A plaintiff who is unable to pay the filing fee and fee for service of notice may file with the court an affidavit of inability to pay under the Texas Rules of Civil Procedure.

(d) Repealed by Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(a)(1), eff. January 1, 2022.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 16, eff. May 21, 1997.

Renumbered from Civil Practice & Remedies Code Sec. 11.005 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(3), eff. Sept. 1, 1999.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 4.01, eff. January 1, 2022.

Acts 2021, 87th Leg., R.S., Ch. 472 (S.B. 41), Sec. 5.01(a)(1), eff. January 1, 2022.

Sec. 12.006. PLAINTIFF'S COSTS. (a) The court shall award

the plaintiff the costs of bringing the action if:

(1) the plaintiff prevails; and

(2) the court finds that the defendant, at the time the defendant caused the recorded document to be recorded or filed, knew or should have known that the recorded document is fraudulent, as described by Section 51.901(c), Government Code.

(b) For purposes of this section, the costs of bringing the action include all court costs, attorney's fees, and related expenses of bringing the action, including investigative expenses.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 16, eff. May 21, 1997.
Renumbered from Civil Practice & Remedies Code Sec. 11.006 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(3), eff. Sept. 1, 1999.

Sec. 12.007. EFFECT ON OTHER LAW. This law is cumulative of other law under which a person may obtain judicial relief with respect to a recorded document or other record.

Added by Acts 1997, 75th Leg., ch. 189, Sec. 16, eff. May 21, 1997.
Renumbered from Civil Practice & Remedies Code Sec. 11.007 by Acts 1999, 76th Leg., ch. 62, Sec. 19.01(3), eff. Sept. 1, 1999.