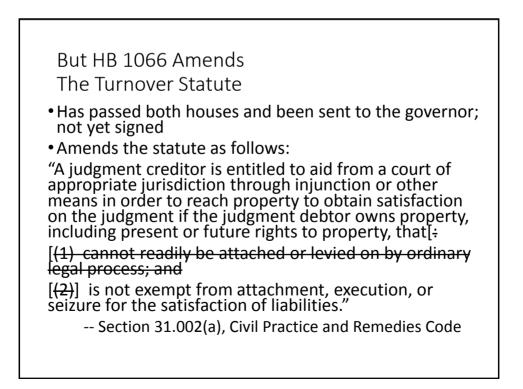
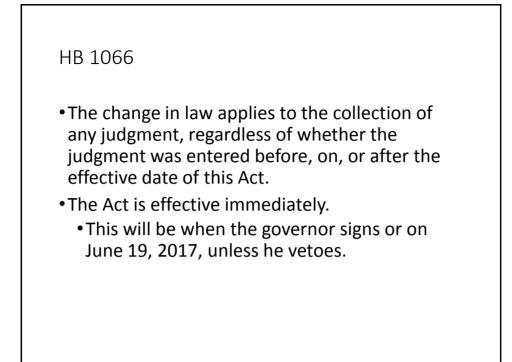
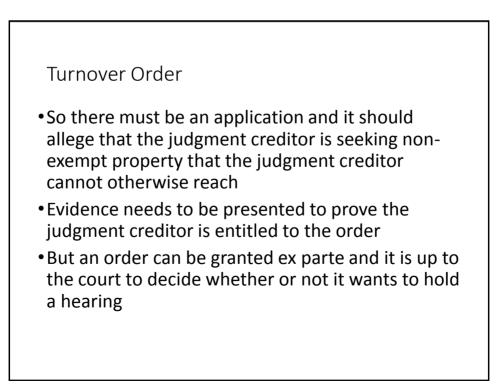


Turnover Order

- Purpose is to aid a judgment creditor where the judgment debtor owns property that "cannot readily be attached or levied on by ordinary legal process."
- •The property must not be exempt from attachment, execution or seizure for the satisfaction of liabilities
  - -- C.P.R.C. § 31.002





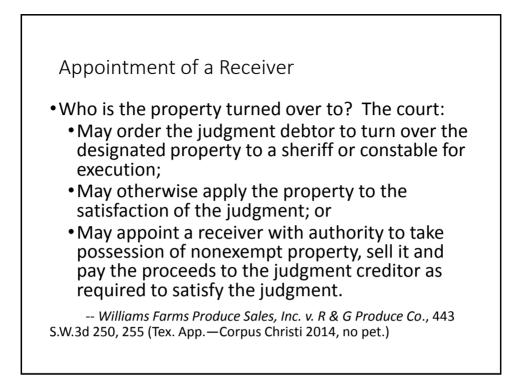


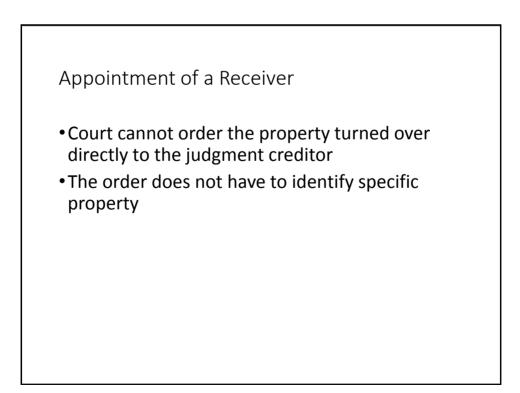


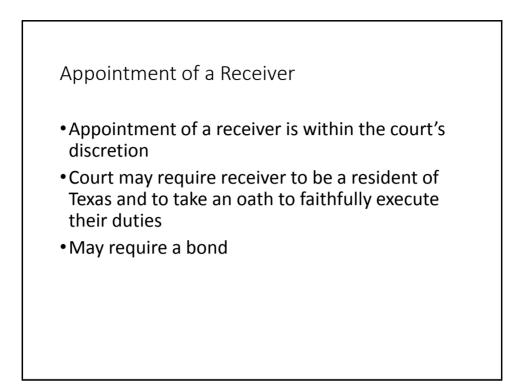
- •Can a turnover order be granted if the judgment creditor has made no attempt to levy by ordinary legal process?
- •Some courts have required that a writ of execution be returned nulla bona first
- But one court has held a writ of execution is not a prerequisite
- •TCJTC's position: It is within the court's discretion to require a writ of execution attempt first until HB 1066 goes into effect

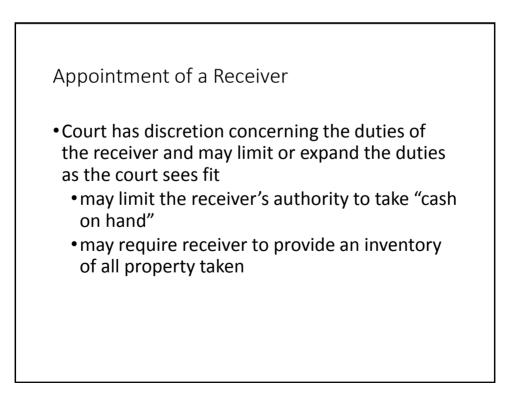


- •When can property "not readily be attached or levied upon?"
- Many cases have dealt with multiple prior attempts at execution and a judgment debtor who refused to appear at post-judgment discovery depositions
- Legislative history suggests this procedure is for property that is difficult to reach, such as contract rights, stocks and negotiable instruments









Appointment of a Receiver

• If you grant an order it must be definite, clear and precise so that the person to whom it is directed has sufficient information as to his duties and does not have to interpret it or draw inferences or conclusions

## Appointment of a Receiver

- Costs may be included since the judgment creditor is entitled to recover reasonable costs, including attorney's fees
- But if a receiver is appointed any finding of reasonable fees should not be made until **after** the work is completed
- A reasonable fee cannot be determined in advance

Turnover Order and Receivers

Summary:

- 1. The application must include evidence that the property requested is nonexempt and cannot be readily attached or levied upon by ordinary legal process
- 2. Currently you may require the judgment creditor to attempt to collect the judgment first by means of a writ of execution; but once HB 1066 goes into effect you may not require this
- 3. You may but are not required to hold a hearing
- 4. An order needs to provide guidance as to the property to be turned over and state that it is nonexempt
- 5. Whether or not a receiver is appointed is within your discretion