

By: Sherman, Sr.

H.B. No. 948

A BILL TO BE ENTITLED

AN ACT

relating to the authentication and recording of instruments conveying real property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 406, Government Code, is amended by adding Section 406.0131 to read as follows:

Sec. 406.0131. SEAL REQUIRED FOR CERTAIN INSTRUMENTS CONVEYING REAL PROPERTY. (a) In addition to the seal required under Section 406.013, a notary public shall provide a seal of office that complies with this section to authenticate an official act involving an instrument that:

(1) conveys real property or an interest in real property; and

(2) will be provided to a county clerk for recording.

(b) The seal provided by a notary under this section must leave a physical indentation when affixed to paper.

(c) The secretary of state shall prescribe the design for the seal required by this section.

SECTION 2. Section 12.001, Property Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Notwithstanding any other law, an instrument conveying real property or an interest in real property that is acknowledged or sworn to before and certified by a notary public may not be recorded unless the notary public:

1 (1) certifies the instrument with the seal required
2 under Section 406.0131, Government Code;

3 (2) affixes the seal over the notary public's
4 signature on the certification; and

5 (3) affixes the seal on each page of the instrument or
6 copy of the instrument provided to the county clerk.

7 SECTION 3. Section 12.0013, Property Code, is amended by
8 amending Subsection (c) and adding Subsection (c-1) to read as
9 follows:

10 (c) Except as provided by Subsection (c-1), a [A] document
11 that is a paper or tangible copy of an electronic record and is
12 printed and declared to be a true and correct copy as provided by
13 Subsection (d) satisfies any requirement of law that, as a
14 condition for recording, the document:

15 (1) be an original or be in writing;

16 (2) be signed or contain an original signature, if the
17 document contains an image of an electronic signature of the person
18 required to sign the document; and

19 (3) be notarized, acknowledged, verified, witnessed,
20 made under oath, sworn to with a jurat, or proved according to law,
21 if the document contains an image of an electronic signature of the
22 person authorized to perform that act and all other information
23 required to be included.

24 (c-1) Notwithstanding Subsection (c), an instrument
25 conveying real property or an interest in real property that is
26 acknowledged or sworn to before and certified by a notary public may
27 not be recorded unless the instrument meets the requirements of

1 Section 12.001(b-1).

2 SECTION 4. Section 15.004, Property Code, is amended by
3 amending Subsection (a) and adding Subsection (d) to read as
4 follows:

5 (a) Except as provided by Subsection (d), if [~~if~~] a law
6 requires, as a condition for recording, that a document be an
7 original, be on paper or another tangible medium, or be in writing,
8 the requirement is satisfied by an electronic document that
9 complies with the requirements of this chapter.

10 (d) A county clerk may not record an electronic document
11 that is an instrument conveying real property or an interest in real
12 property that is acknowledged or sworn to before and certified by a
13 notary public.

14 SECTION 5. (a) The secretary of state shall prescribe the
15 design for the seal of office required by Section 406.0131,
16 Government Code, as added by this Act, not later than December 1,
17 2021.

18 (b) The changes in law made by this Act apply only to the
19 recording of a document filed for recording on or after January 1,
20 2022. The recording of a document filed for recording before
21 January 1, 2022, is governed by the law as it existed immediately
22 before the effective date of this Act, and that law is continued in
23 effect for that purpose.

24 SECTION 6. This Act takes effect September 1, 2021.