

By: Murr

H.B. No. 207

A BILL TO BE ENTITLED

AN ACT

relating to the exclusion of certain conveyances from classification as sham or pretended sales.

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

SECTION 1. Subchapter A, Chapter 41, Property Code, is amended by adding Section 41.0022 to read as follows:

Sec. 41.0022. CERTAIN CONVEYANCES NOT SHAM OR PRETENDED SALES. (a) In this section:

(1) "Entity" means a domestic or foreign:

(A) corporation, professional corporation, or professional association;

(B) limited liability company or professional limited liability company; or

(C) limited partnership.

(2) "Parcel" means one or more parcels.

(b) The conveyance of a parcel not meeting the definition of an urban homestead under Section 41.002(a) or (c) by an individual to an entity in which the individual or individual's spouse has a direct or indirect ownership interest is not a sham or pretended sale, including a pretended sale under Section 50(c), Article XVI, Texas Constitution, if:

(1) the deed conveying the parcel is recorded at least 30 days before the entity grants a mortgage, trust deed, or other lien on the parcel;

1           (2) the individual does not reside on the parcel at the  
2 time of the conveyance;

3           (3) the parcel is not contiguous to the parcel on which  
4 the individual resides;

5           (4) the deed conveying the parcel does not contain a  
6 condition of defeasance; and

7           (5) the individual recorded contemporaneously with  
8 the deed an affidavit substantially in the form prescribed by  
9 Subsection (d).

10          (c) An individual executing a deed under Subsection (b) is  
11 estopped from claiming that:

12           (1) the conveyance is a sham or pretended sale,  
13 including a pretended sale under Section 50(c), Article XVI, Texas  
14 Constitution; or

15           (2) the individual had not abandoned homestead rights,  
16 if any, in the parcel by executing the deed.

17          (d) At the time of recording a deed under Subsection (b), an  
18 individual grantor of the deed shall record an affidavit containing  
19 the following:

20           (1) a title caption stating "Affidavit Regarding  
21 Conveyance To An Entity";

22           (2) the date of the affidavit;

23           (3) a description of the deed containing:

24                   (A) the title of the deed;

25                   (B) the date of the deed;

26                   (C) the name and address of the individual  
27 grantor; and

- 1                    (D) the name and address of the entity grantee;  
2                    (4) a description of the parcel being conveyed to the  
3 entity;  
4                    (5) a description of the parcel upon which the  
5 individual currently resides;  
6                    (6) a statement that the parcel being conveyed is not  
7 contiguous to the parcel upon which the individual currently  
8 resides;  
9                    (7) a statement that the parcel upon which the  
10 individual currently resides is not:  
11                    (A) located within the limits of a municipality  
12 or its extraterritorial jurisdiction or a platted subdivision; or  
13                    (B) served by police protection, paid or  
14 volunteer fire protection, and at least three of the following  
15 services provided by a municipality or under contract to a  
16 municipality:  
17                                    (i) electric;  
18                                    (ii) natural gas;  
19                                    (iii) sewer;  
20                                    (iv) storm sewer; or  
21                                    (v) water;  
22                    (8) a statement that:  
23                                    (A) the individual is unmarried; or  
24                                    (B) the individual is married, and including the  
25 name of the individual's spouse;  
26                    (9) a statement that the individual or individual's  
27 spouse owns a direct or indirect interest in the entity;

1           (10) a statement that the individual has executed the  
2 deed conveying the parcel to the entity;

3           (11) a statement that the individual intends to vest  
4 title in the entity;

5           (12) a statement that there are no written or oral  
6 agreements regarding a defeasance of the parcel upon the passage of  
7 time or occurrence or non-occurrence of any event;

8           (13) a statement that the individual acknowledges that  
9 the individual will be estopped from claiming the conveyance to the  
10 entity is a sham or pretended sale, including a pretended sale under  
11 Section 50(c), Article XVI, Texas Constitution;

12           (14) a statement that the individual acknowledges that  
13 the individual will be estopped from claiming the individual had  
14 not abandoned homestead rights, if any, in the parcel by executing  
15 the deed;

16           (15) a statement that the individual understands that  
17 if the parcel is valued for ad valorem tax purposes as qualified  
18 open-space land, the entity must reapply in its own name by the  
19 applicable filing deadline; and

20           (16) a statement that the individual has had an  
21 opportunity:

22                   (A) to review the affidavit prior to the  
23 affidavit's execution; and

24                   (B) to consult with an attorney before the  
25 affidavit's execution, whether or not the opportunity to consult  
26 with an attorney was exercised.

27           (e) If the individual conveying a parcel under Subsection

1 (b) is married, the individual's spouse must join in the execution

2 of:

3 (1) the deed; and

4 (2) the affidavit described by Subsection (d).

5 (f) The entity or a lender for value may conclusively rely

6 on an affidavit described by Subsection (d).

7 SECTION 2. This Act takes effect September 1, 2023.