

By: Anchía

H.B. No. 4558

A BILL TO BE ENTITLED

AN ACT

relating to the filing or recording of documents or instruments conveying or purporting to convey an interest in real or personal property.

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

SECTION 1. Sections 51.901(a), (c), and (d), Government Code, are amended to read as follows:

(a) If a clerk of the supreme court, clerk of the court of criminal appeals, clerk of a court of appeals, district clerk, county clerk, district and county clerk, or municipal clerk has a reasonable basis to believe in good faith that a document or instrument previously filed or recorded or offered or submitted for filing or for filing and recording is fraudulent, the clerk shall:

(1) if the document is a purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of a purported court, provide written notice of the filing, recording, or submission for filing or for filing and recording to the stated or last known address of the person against whom the purported judgment, act, order, directive, or process is rendered; or

(2) if the document or instrument purports to create a lien against or assert a claim to [~~on real or personal property~~] or an interest in real or personal property, provide written notice of the filing, recording, or submission for filing or for filing and

1 recording to the stated or last known address of:

2 (A) the person named in the document or
3 instrument as the grantor, obligor, or debtor, and to any person
4 named as the grantee or as owning or acquiring any interest in the
5 real or personal property described in the document or instrument;
6 and

7 (B) as applicable, the last known owner of the
8 property if that owner's address is different from the address of
9 the grantor, obligor, or debtor named in the document or
10 instrument.

11 (c) For purposes of this section, a document or instrument
12 is presumed to be fraudulent if:

13 (1) the document is a purported judgment or other
14 document purporting to memorialize or evidence an act, an order, a
15 directive, or process of:

16 (A) a purported court or a purported judicial
17 entity not expressly created or established under the constitution
18 or the laws of this state or of the United States; or

19 (B) a purported judicial officer of a purported
20 court or purported judicial entity described by Paragraph (A);

21 (2) the document or instrument purports to create a
22 lien against or assert a claim to [~~against real or personal~~
23 ~~property~~] or an interest in real or personal property and:

24 (A) is not a document or instrument provided for
25 by the constitution or laws of this state or of the United States;

26 (B) is not created by implied or express consent
27 or agreement of the grantor, obligor, debtor, or the owner of the

1 real or personal property or an interest in the real or personal
2 property, if required under the laws of this state, or by implied or
3 express consent or agreement of an agent, fiduciary, or other
4 representative of that person; or

5 (C) is not an equitable, constructive, or other
6 lien imposed by a court with jurisdiction created or established
7 under the constitution or laws of this state or of the United
8 States; or

9 (3) the document or instrument purports to create a
10 lien or assert a claim against real or personal property or an
11 interest in real or personal property and the document or
12 instrument is filed by an inmate or on behalf of an inmate.

13 (d) If a county clerk believes in good faith that a document
14 or instrument filed, recorded, or submitted for filing or recording
15 with the county clerk to create a lien against or assert a claim to
16 or an interest in real or personal property is fraudulent, the clerk
17 shall:

18 (1) request the assistance of the county or district
19 attorney to determine whether the document is fraudulent before
20 filing or recording the document;

21 (2) request that the prospective filer provide to the
22 county clerk additional documentation supporting the existence of
23 the lien, claim, or interest, such as a contract or other document
24 that contains the signature of the alleged owner, debtor, grantor,
25 or obligor [~~obligor's signature~~]; [~~and~~]

26 (3) forward any additional documentation received to
27 the county or district attorney; and

1 (4) refuse to file or record the document or
2 instrument submitted for filing or recording if:

3 (A) the district or county attorney whose
4 assistance the clerk requested under Subdivision (1) determines
5 there is probable cause to believe the document or instrument is
6 fraudulent; or

7 (B) the prospective filer does not provide the
8 clerk the additional documentation requested under Subdivision
9 (2).

10 SECTION 2. Section 12.003(b), Civil Practice and Remedies
11 Code, is amended to read as follows:

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

20 SECTION 3. Section 12.001(b), Property Code, is amended to
21 read as follows:

22 (b) An instrument conveying real property may not be
23 recorded unless it is:

24 (1) signed and acknowledged or sworn to by the grantor
25 in the presence of two or more credible subscribing witnesses; and

26 (2) ~~[or acknowledged or]~~ sworn to before and certified
27 by an officer authorized to take acknowledgements or oaths~~[, as~~

1 ~~applicable~~].

2 SECTION 4. The changes in law made by this Act apply only to
3 a document or instrument conveying or purporting to convey an
4 interest in real or personal property filed, recorded, or offered
5 for filing or recording on or after the effective date of this Act.
6 A document or instrument conveying or purporting to convey an
7 interest in real or personal property filed, recorded, or offered
8 for filing or recording before the effective date of this Act is
9 governed by the law in effect on the day the document or instrument
10 was filed, recorded, or offered for filing or recording, and the
11 former law is continued in effect for that purpose.

12 SECTION 5. This Act takes effect September 1, 2025.