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S.B. No. 2611

A BILL TO BE ENTITLED

AN ACT

relating to the status of certain documents or instruments concerning real or personal property; creating the criminal offenses of real property theft and real property fraud and establishing a statute of limitations for those offenses; harmonizing other statute of limitations provisions; increasing a criminal penalty.

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

SECTION 1. Article 12.01, Code of Criminal Procedure, as amended by Chapters 93 (S.B. 1527), 118 (H.B. 467), 127 (H.B. 1207), 422 (H.B. 1769), 520 (H.B. 3025), 689 (H.B. 1506), 704 (H.B. 2019), 709 (H.B. 2190), 768 (H.B. 4595), 830 (H.B. 2187), 885 (H.B. 4635), and 1041 (S.B. 129), Acts of the 88th Legislature, Regular Session, 2023, is reenacted and amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Articles 12.015 and 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code;

(C) sexual assault, if:

(i) during the investigation of the offense

biological matter is collected and the matter:

(a) has not yet been subjected to forensic DNA testing; or

(b) has been subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or

(ii) probable cause exists to believe that the defendant has committed the same or a similar sex offense against five or more victims;

(D) continuous sexual abuse of young child or disabled individual under Section 21.02, Penal Code;

(E) indecency with a child under Section 21.11, Penal Code;

(F) an offense involving leaving the scene of a collision under Section 550.021, Transportation Code, if the collision resulted in the death of a person;

(G) trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code;

(H) continuous trafficking of persons under Section 20A.03, Penal Code;

(I) compelling prostitution under Section 43.05(a)(2) or (3), Penal Code; ~~or~~

(J) tampering with physical evidence under Section 37.09(a)(1) or (d)(1), Penal Code, if:

(i) the evidence tampered with is a human corpse, as defined by that section; or

(ii) the investigation of the offense shows that a reasonable person in the position of the defendant at the time of the commission of the offense would have cause to believe that the evidence tampered with is related to a criminal homicide under Chapter 19, Penal Code;

(K) ~~[(J)]~~ interference with child custody under Section 25.03(a)(3), Penal Code; or

(L) ~~[(J)]~~ burglary under Section 30.02, Penal Code, if:

(i) the offense is punishable under Subsection (d) of that section because the defendant entered a habitation with the intent to commit an offense under Section 22.011 or 22.021, Penal Code; and

(ii) during the investigation of the offense biological matter is collected and the matter:

(a) has not yet been subjected to forensic DNA testing; or

(b) has been subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained;

(2) ten years from the date of the commission of the offense:

(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;

(B) theft by a public servant of government property over which the public servant exercises control in the public servant's official capacity;

(C) forgery or the uttering, using, or passing of forged instruments;

(D) injury to an elderly or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;

(E) sexual assault, except as provided by Subdivision (1) or (9) [~~(8)~~];

(F) arson;

(G) trafficking of persons under Section 20A.02(a)(1), (2), (3), or (4), Penal Code; [~~or~~]

(H) compelling prostitution under Section 43.05(a)(1), Penal Code;

(I) real estate theft under Section 31.22, Penal Code; or

(J) real estate fraud under Section 32.56, Penal Code;

(3) seven years from the date of the commission of the offense:

(A) misapplication of fiduciary property or property of a financial institution;

(B) fraudulent securing of document execution;

(C) a felony violation under Chapter 162, Tax Code;

(D) false statement to obtain property or credit

under Section 32.32, Penal Code;

(E) money laundering;

(F) credit card or debit card abuse under Section 32.31, Penal Code;

(G) fraudulent use or possession of identifying information under Section 32.51, Penal Code;

(H) exploitation of a child, elderly individual, or disabled individual under Section 32.53, Penal Code;

(I) health care fraud under Section 35A.02, Penal Code;

(J) bigamy under Section 25.01, Penal Code, except as provided by Subdivision (7); or

(K) possession or promotion of child pornography under Section 43.26, Penal Code;

(4) five years from the date of the commission of the offense:

(A) theft or robbery;

(B) except as provided by Subdivision (5), kidnapping;

(C) [~~(B-1)~~] except as provided by Subdivision (1) or (5), burglary;

(D) [~~(C)~~] injury to an elderly or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;

(E) [~~(D)~~] abandoning or endangering an [~~a child,~~] elderly [~~individual,~~] or disabled individual;

(F) [~~(E)~~] insurance fraud;

1 (G) [~~(F)~~] assault under Section 22.01, Penal
2 Code, if the assault was committed against a person whose
3 relationship to or association with the defendant is described by
4 Section 71.0021(b), 71.003, or 71.005, Family Code;

5 (H) [~~(G)~~] continuous violence against the family
6 under Section 25.11, Penal Code; or

7 (I) [~~(H)~~] aggravated assault under Section
8 22.02, Penal Code;

9 (5) if the investigation of the offense shows that the
10 victim is younger than 17 years of age at the time the offense is
11 committed, 20 years from the 18th birthday of the victim of one of
12 the following offenses:

13 (A) kidnapping under Section 20.03, Penal Code,
14 or aggravated kidnapping under Section 20.04, Penal Code; or

15 (B) subject to Subdivision (1)(L) [~~(1)(J)~~],
16 burglary under Section 30.02, Penal Code, if the offense is
17 punishable under Subsection (d) of that section because the
18 defendant entered a habitation with the intent to commit an offense
19 described by Subdivision (1)(B) or (D) of this article or Paragraph
20 (A) of this subdivision;

21 (6) 20 years from the 18th birthday of the victim of
22 one of the following offenses:

23 (A) trafficking of a child [~~persons~~] under
24 Section 20A.02(a)(5) or (6), Penal Code; or

25 (B) sexual performance by a child under Section
26 43.25, Penal Code;

27 (7) ten years from the 18th birthday of the victim of

the offense:

(A) injury to a child under Section 22.04, Penal Code;

(B) bigamy under Section 25.01, Penal Code, if the investigation of the offense shows that the person, other than the legal spouse of the defendant, whom the defendant marries or purports to marry or with whom the defendant lives under the appearance of being married is younger than 18 years of age at the time the offense is committed; or

(C) ~~[(D)]~~ abandoning or endangering a child;

(8) ~~[(7)]~~ ten years from the date the offense was discovered: trafficking of a disabled individual under Section 20A.02(a)(5) or (6), Penal Code;

(9) ~~[(8)]~~ two years from the date the offense was discovered: sexual assault punishable as a state jail felony under Section 22.011(f)(2), Penal Code; or

(10) ~~[(9)]~~ three years from the date of the commission of the offense: all other felonies.

SECTION 2. Title 1, Code of Criminal Procedure, is amended by adding Chapter 5C to read as follows:

CHAPTER 5C. PROCEDURES FOR REAL PROPERTY THEFT AND FRAUD

Art. 5C.001. VERDICT; JUDGMENT. (a) If an offense under Section 31.22 or Section 32.56, Penal Code, involves more than one parcel of real property:

(1) for a case determined by a trial by jury:

(A) the verdict form shall clearly identify each parcel of real property by street address or legal description of

1 the real property;

2 (B) the jury foreperson shall indicate whether
3 the jury unanimously finds that the parcel of real property is
4 included in the conduct constituting the offense; and

5 (C) the judgment must reflect the jury's verdict
6 for each parcel of real property that the jury unanimously finds to
7 be included in the conduct constituting the offense;

8 (2) for a case determined by a judge without a jury:

9 (A) the judge in rendering the verdict shall
10 state, for each parcel of real property, whether the judge finds the
11 property to be included in the conduct constituting the offense;
12 and

13 (B) the judgment must reflect the judge's finding
14 for each parcel of real property that the judge finds to be included
15 in the conduct constituting the offense; and

16 (3) for a case determined based on the defendant's
17 plea, if the indictment does not clearly identify each parcel of
18 real property alleged to be included in the conduct constituting
19 the offense, the prosecutor shall provide that information to the
20 court. The court shall include the information in the judgment.

21 (b) A judgment of conviction entered for an offense under
22 Section 31.22 or Section 32.56, Penal Code, must include:

23 (1) the street address or legal description of the
24 real property; and

25 (2) for each document that relates to the real
26 property that is the subject of the offense and that is recorded in
27 the real property records of the county, the identifying reference

number assigned to that document by the county clerk.

Art. 5C.002. JUDGMENT TO BE FILED WITH COUNTY CLERK. Not later than the 10th day after the date the court enters a judgment for an offense under Section 31.22 or Section 32.56, Penal Code, the prosecutor or the court clerk, as determined by local court rule, shall file with the county clerk:

(1) a certified copy of the judgment for recording in the real property records of the county where the real property that is the subject of the offense is located;

(2) a statement explaining the filing; and

(3) if the judgment does not comply with Article 5C.001(b), a certified copy of the indictment.

Art. 5C.003. EFFECT OF NONCOMPLIANCE ON JUDGMENT. A judgment for an offense under Section 31.22 or Section 32.56, Penal Code, is not invalid solely because the judgment fails to comply with Article 5C.001(b) or 5C.002.

SECTION 3. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0376 to read as follows:

Art. 42.0376. MANDATORY RESTITUTION FOR REAL ESTATE THEFT.

(a) Except as provided by Subsection (b) and subject to Subsection (c), the court shall order a defendant convicted of an offense under Section 31.22, Penal Code, to pay restitution, as applicable:

(1) for an offense under Section 31.22(b)(1), to the owner of the real property or nonpossessory interest in real property that is the subject of the offense in an amount equal to the value of the real property or nonpossessory interest;

(2) for an offense under Section 31.22(b)(2), to the

owner of the benefit that is the subject of the offense in an amount equal to the value of the benefit;

(3) to a title company or insurer that paid a claim based on the conduct constituting the offense, in an amount equal to the value of the payment made by the title company or insurer; or

(4) to the owner of the real property or nonpossessory interest in real property or the owner of the benefit in an amount equal to, as applicable:

(A) the value of losses incurred as the result of the conduct constituting the offense, including loss of personal property located on or in the real property that is the subject of the offense;

(B) the cost of repairing damage caused by or resulting from the conduct constituting the offense; or

(C) reasonable attorney's fees and court costs related to an action brought to quiet title to or dispute the conveyance or possession of the real property that is the subject of the offense.

(b) The court may not order a defendant convicted of an offense under Section 31.22(b)(1), Penal Code, to pay restitution if, before judgment is entered in the case, the defendant:

(1) with respect to the real property or nonpossessory interest in real property that is the subject of the offense, executes a quitclaim deed or other instrument conveying the title or interest to the owner of the property or interest if the defendant is listed as the owner of the property or interest in the county real property records;

1 (2) files for recording in the county property records
2 a copy of the quitclaim deed or other instrument; and

3 (3) files a certified copy of the recorded quitclaim
4 deed or other instrument with the court.

5 (c) The court shall reduce the amount of restitution that a
6 defendant is ordered to pay under this article by an amount equal to
7 the value of a payment made by a title company or insurer for a claim
8 based on the conduct constituting the offense to the person to whom
9 the court orders the defendant to pay restitution.

10 SECTION 4. Sections 51.901(c), (d), and (e), Government
11 Code, are amended to read as follows:

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

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

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

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

22 (2) the document or instrument purports to create a
23 lien or assert a claim against real or personal property or an
24 interest in real or personal property and all of the following are
25 true:

26 (A) the document or instrument is not a document
27 or instrument provided for by the constitution or laws of this state

or of the United States;

(B) the document or instrument is not created by implied or express consent or agreement of the purported obligor, debtor, or grantor, or the owner of the real or personal property or an interest in the real or personal property, if required under the laws of this state, or by implied or express consent or agreement of an agent, fiduciary, or other representative of that person; and ~~[or]~~

(C) the document or instrument is not an equitable, constructive, or other lien imposed by a court with jurisdiction created or established under the constitution or laws of this state or of the United States; ~~[or]~~

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

(4) the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and the document or instrument is referenced in a certified copy of the judgment for an offense under Chapter 31, 32, or 37, Penal Code.

(d) If a county clerk believes in good faith that a document filed with the county clerk to create a lien against or assert a claim to or interest in real or personal property is fraudulent, the clerk shall:

(1) request the assistance of the county or district attorney to determine whether the document is fraudulent before

1 filing or recording the document;

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

7 (3) forward any additional documentation received to
8 the county or district attorney.

9 (e) A presumption under Subsection (c)(3) may be rebutted by
10 providing the filing officer in the filing office in which the
11 document is filed or recorded the original or a copy of a sworn and
12 notarized document signed by the obligor, debtor, grantor, or owner
13 of the property or interest that is designated in the document or
14 instrument that purports to create a lien or assert a claim against
15 the property or interest ~~[as collateral]~~ stating that the person
16 entered into an ~~[a security]~~ agreement with the inmate, including a
17 security agreement for which the obligor, debtor, grantor, or owner
18 of the property or interest ~~[and]~~ authorized the filing of the
19 financing statement as provided by Section 9.509, Business &
20 Commerce Code.

21 SECTION 5. The heading to Section 51.903, Government Code,
22 is amended to read as follows:

23 Sec. 51.903. ACTION ON FRAUDULENT DOCUMENT OR INSTRUMENT
24 ~~[LIEN ON PROPERTY]~~.

25 SECTION 6. Sections 51.903(a), (b), (c), (e), and (g),
26 Government Code, are amended to read as follows:

27 (a) A person who owns real or personal property or an

1 interest in real or personal property that is the subject of a
2 document or instrument recorded in or filed for recording in the
3 records of a county, or a person who is the purported ~~[debtor or]~~
4 obligor, debtor, or grantor named in the document or instrument,
5 ~~[or who owns real or personal property or an interest in real or~~
6 ~~personal property and]~~ who has reason to believe that the document
7 or instrument ~~[purporting to create a lien or a claim against the~~
8 ~~real or personal property or an interest in the real or personal~~
9 ~~property previously filed or submitted for filing and recording]~~ is
10 fraudulent may complete and file with the district clerk a motion,
11 verified as required by Subsection (b) ~~[by affidavit by a completed~~
12 ~~form for ordinary certificate of acknowledgment, of the same type~~
13 ~~described by Section 121.007, Civil Practice and Remedies Code],~~
14 that contains, at a minimum, the information in the following
15 suggested form:

16 MISC. DOCKET NO. _____
17 In Re: A Purported In the _____ Judicial District
18 Lien or Claim Against In and For _____
19 (Description of Property or Name County, Texas
20 of Purported
21 Obligor, Debtor, or Grantor)

22 Motion for Judicial Review of Document ~~[Documentation]~~ or
23 Instrument Purporting to Create ~~[a]~~ Lien or Assert Claim Against
24 Real or Personal Property

25 Now Comes (name) and files this motion requesting a judicial
26 determination of the status of a document ~~[documentation]~~ or ~~[an]~~
27 instrument purporting to create a lien or assert a claim against ~~[an]~~

1 ~~interest in real or personal property or a lien or claim on~~ real or
2 personal property or an interest in real or personal property filed
3 in the office of the Clerk of (county name) County, Texas, and in
4 support of the motion would show the court as follows:

5 I.

6 (Name), movant herein, is the ~~[purported obligor or debtor~~
7 ~~or]~~ person who owns the real or personal property or the interest in
8 real or personal property described in or the purported obligor,
9 debtor, or grantor named in the document ~~[documentation]~~ or
10 instrument attached to this motion.

11 II.

12 On (date), in the exercise of the county clerk's official
13 duties as County Clerk of (county name) County, Texas, the county
14 clerk received and filed and recorded the attached document
15 ~~[documentation]~~ or instrument ~~[attached hereto]~~ and containing
16 (number) pages and stamped the document or instrument with the
17 following instrument number or other reference number: (instrument
18 number or reference number). The document ~~[Said documentation]~~ or
19 instrument purports to have created a lien or to assert a claim
20 against ~~[on]~~ real or personal property or an interest in real or
21 personal property ~~[against one (name of purported debtor)]~~. The
22 real or personal property is described as follows:

23 Address of the real property:

24 Legal description of the real property (if different from the
25 legal description contained in the attached document or
26 instrument):

27 Description of personal property:

~~form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, must be as follows]:~~

AFFIDAVIT

THE STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned authority, personally appeared _____, who, being by me duly sworn, deposed as follows:

"My name is _____. I am over 21 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

SUBSCRIBED and SWORN TO before
me, this _____ day of _____,
_____.

NOTARY PUBLIC, State of Texas
Notary's printed name:

My commission expires:

(c) A motion under this section may be ruled on by a district judge having jurisdiction over real property matters in the county where the subject document or instrument was filed. The court's

finding may be made solely on a review of the document ~~[documentation]~~ or instrument attached to the motion and without hearing any testimonial evidence. The court's review may be made ex parte without delay or notice of any kind. An appellate court shall expedite review of a court's finding under this section.

(e) After reviewing the document ~~[documentation]~~ or instrument attached to a motion under this section, the district judge shall enter an appropriate finding of fact and conclusion of law, which must be filed and indexed in the same class of records in which the subject document ~~[documentation]~~ or instrument was originally filed. A copy of the finding of fact and conclusion of law shall be sent, by first class mail, to the movant and to the person who filed the document or instrument for recording ~~[fraudulent lien or claim]~~ at the last known address of each person within seven days of the date that the finding of fact and conclusion of law is issued by the judge.

(g) A suggested form order appropriate to comply with this section is as follows:

	MISC. DOCKET NO. _____
In Re: A Purported	In the _____ Judicial District
Lien or Claim Against	In and For _____
(Description of Property or Name County, Texas	
of Purported	
<u>Obligor, Debtor, or Grantor</u>)	
Judicial Finding of Fact and Conclusion of Law Regarding <u>Document</u>	
[a Documentation] or Instrument Purporting to Create [a] Lien or	
<u>Assert Claim Against Real or Personal Property</u>	

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion, verified by affidavit, of (name) and the document [~~documentation~~] or instrument attached to the motion [~~thereto~~]. No testimony was taken from any party, nor was there any notice of the court's review, the court having made the determination that a decision could be made solely on review of the document [~~documentation~~] or instrument under the authority vested in the court under Subchapter J, Chapter 51, Government Code.

The document or instrument bears the following instrument number or other reference number: (instrument number or reference number)

The real or personal property purported to be subject to the lien created or claim asserted by the document or instrument is described as follows:

Address of the real property:

Legal description of the real property (if different from the legal description contained in the attached document or instrument):

Description of the personal property:

The court finds and orders as follows (only an item checked and initialed is a valid court ruling):

_____ The court DECLINES TO AGREE to find the document or instrument invalid, because the court finds all of the following conditions are true:

The document [~~documentation~~] or instrument attached to the motion [~~herein~~] IS asserted against real or personal property or an

1 interest in real or personal property.

2 The document or instrument IS (the court must check and
3 initial at least one of the following) [and]:

4 [(1)—IS] provided for by specific state or
5 federal statutes or constitutional provisions;

6 [(2)—IS] created by implied or express consent
7 or agreement of the obligor, debtor, or grantor, or the owner of the
8 real or personal property or an interest in the real or personal
9 property, if required under the laws of this state, or by implied or
10 express consent or agreement of an agent, fiduciary, or other
11 representative of that person; or

12 [(3)—IS] an equitable, constructive, or other
13 lien imposed by a court of competent jurisdiction created or
14 established under the constitution or laws of this state or of the
15 United States.

16 There is no apparent basis to presume the document or
17 instrument is fraudulent under Section 51.901(c), Government Code.

18 The court AGREES and concludes as a matter of law that the
19 document or instrument attached to the motion does not create a
20 valid lien or assert a valid claim against real or personal property
21 or an interest in real or personal property based on a finding that
22 one or more of the following conditions is true (the court must
23 check and initial at least one of the following) [The documentation
24 or instrument attached to the motion herein]:

25 The document or instrument IS NOT asserted against real
26 or personal property or an interest in real or personal property.
27 There is no valid lien created or claim asserted by the document or

1 instrument.

2 _____ The document or instrument is presumed to be fraudulent
3 under Section 51.901(c)(2), Government Code, because it:

4 (1) IS NOT provided for by specific state or federal
5 statutes or constitutional provisions;

6 (2) IS NOT created by implied or express consent or
7 agreement of the obligor, debtor, or grantor, or the owner of the
8 real or personal property or an interest in the real or personal
9 property, if required under the law of this state or by implied or
10 express consent or agreement of an agent, fiduciary, or other
11 representative of that person; and

12 (3) IS NOT an equitable, constructive, or other lien
13 imposed by a court of competent jurisdiction created by or
14 established under the constitution or laws of this state or the
15 United States[~~, or~~

16 [~~(4) IS NOT asserted against real or personal property~~
17 ~~or an interest in real or personal property. There is no valid lien~~
18 ~~or claim created by this documentation or instrument]~~.

19 _____ The document or instrument is filed by an inmate or on
20 behalf of an inmate and is therefore presumed fraudulent under
21 Section 51.901(c)(3), Government Code.

22 _____ The document or instrument attached to the motion is
23 presumed fraudulent under Section 51.901(c)(4), Government Code,
24 because the document or instrument is referenced in a certified
25 copy of the judgment for an offense under Chapter 31, 32, or 37,
26 Penal Code, in the following criminal action:

27 Cause number: _____,

1 in the _____ court of _____ County, Texas,
2 dated _____.

3 This court makes no finding as to any underlying claims of the
4 parties involved, and expressly limits its finding of fact and
5 conclusion of law to the review of a ministerial act. The county
6 clerk shall record [~~file~~] this finding of fact and conclusion of law
7 in the same class of records as the subject document
8 [~~documentation~~] or instrument was originally recorded [~~filed~~], and
9 the court directs the county clerk to index it using the same names
10 that were used in indexing the subject document [~~documentation~~] or
11 instrument.

12 The court further orders thus: _____
13 _____
14 _____
15 _____
16 _____.

17 SIGNED ON THIS THE _____ DAY OF _____.
18 _____
19 DISTRICT JUDGE
20 _____ JUDICIAL DISTRICT
21 _____ COUNTY, TEXAS

22 SECTION 7. Chapter [31](#), Penal Code, is amended by adding
23 Section 31.22 to read as follows:

24 Sec. 31.22. REAL PROPERTY THEFT. (a) In this section:
25 (1) "Nonpossessory interest" includes an interest
26 that may be conveyed by a quitclaim deed or conditional transfer.
27 (2) "Owner" includes an owner's estate and known

1 successors in interest if the owner is deceased.

2 (3) "Transfer" has the meaning assigned by Section
3 12.019, Property Code.

4 (b) A person commits an offense if the person:

5 (1) brings about or attempts to bring about a transfer
6 or purported transfer of real property or title to real property or
7 a nonpossessory interest in real property, to any transferee or
8 intended transferee:

9 (A) without the effective consent of the owner of
10 the real property or the nonpossessory interest in real property;
11 and

12 (B) with the intent to deprive the owner of the
13 real property or the nonpossessory interest in the real property;
14 or

15 (2) sells or otherwise transfers or encumbers, or
16 attempts to sell or otherwise transfer or encumber, real property
17 or title to real property or a nonpossessory interest in real
18 property to or with respect to a person in exchange for a benefit
19 from any person:

20 (A) without the effective consent of the owner of
21 the benefit; and

22 (B) with the intent to deprive the owner of the
23 benefit.

24 (c) Except as provided by Subsection (e), an offense under
25 Subsection (b)(1) is:

26 (1) a felony of the second degree if it is shown on the
27 trial of the offense that the market value of the real property is

1 less than \$300,000; or

2 (2) a felony of the first degree if it is shown on the
3 trial of the offense that the market value of the real property is
4 \$300,000 or more.

5 (d) Except as provided by Subsection (e), an offense under
6 Subsection (b)(2) is:

7 (1) a felony of the third degree if it is shown on the
8 trial of the offense that the value of the benefit received is less
9 than \$30,000;

10 (2) a felony of the second degree if it is shown on the
11 trial of the offense that the value of the benefit received is
12 \$30,000 or more but less than \$150,000; or

13 (3) a felony of the first degree if it is shown on the
14 trial of the offense that the value of the benefit received is
15 \$150,000 or more.

16 (e) An offense described for purposes of punishment by
17 Subsections (c) and (d) is increased to the next higher category of
18 offense if it is shown on the trial of the offense that at the time
19 of the offense:

20 (1) the owner of the real property or nonpossessory
21 interest in real property or the owner of the benefit was:

22 (A) a person 65 years of age or older; or

23 (B) a nonprofit organization; or

24 (2) the real property was subject to a property tax
25 exemption under Subchapter B, Chapter 11, Tax Code, as an
26 individual's residence homestead as defined by Section 11.13(j),
27 Tax Code.

1 (f) For purposes of Subsection (c), the market value of real
2 property is the market value of that property for the tax year in
3 which the offense was committed, as indicated on the appraisal roll
4 for the appraisal district in which the property is located.

5 (g) If conduct that constitutes an offense under this
6 section also constitutes an offense under another law, the actor
7 may be prosecuted under this section, the other law, or both.

8 SECTION 8. Subchapter D, Chapter 32, Penal Code, is amended
9 by adding Section 32.56 to read as follows:

10 Sec. 32.56. REAL PROPERTY FRAUD. (a) In this section:

11 (1) "Deception" has the meaning assigned by Section
12 31.01.

13 (2) "Document" and "effective consent" have the
14 meanings assigned by Section 32.46.

15 (b) A person commits an offense if the person:

16 (1) intentionally or knowingly makes a materially
17 false or misleading written statement to obtain real property; or

18 (2) with the intent to defraud or harm any person:

19 (A) causes another person, without that person's
20 effective consent, to sign or execute any document affecting real
21 property or any person's interest in real property; or

22 (B) causes a public servant, without the public
23 servant's effective consent, to file or record any purported
24 judgment or other document purporting to memorialize or evidence:

25 (i) title to real property or any person's
26 interest in real property; or

27 (ii) a lien or claim against real property

or against any person's interest in real property.

(c) Except as provided by Subsection (d), an offense under this section is:

(1) a felony of the second degree if it is shown on the trial of the offense that the market value of the real property or the value of the interest in the real property is less than \$300,000; or

(2) a felony of the first degree if it is shown on the trial of the offense that the market value of the real property or the value of the interest in the real property is \$300,000 or more.

(d) An offense described for purposes of punishment by Subsection (b) is increased to the next higher category of offense if it is shown on the trial of the offense that at the time of the offense:

(1) the owner of the real property was:

(A) a person 65 years of age or older; or

(B) a nonprofit organization; or

(2) the real property was subject to a property tax exemption under Subchapter B, Chapter 11, Tax Code, as an individual's residence homestead as defined by Section 11.13(j), Tax Code.

(e) For purposes of Subsection (c), the market value of real property is the market value of that property for the tax year in which the offense was committed, as indicated on the appraisal roll for the appraisal district in which the property is located.

SECTION 9. Section 37.101(b), Penal Code, is amended to read as follows:

1 (b) An offense under Subsection (a)(1) is a felony of the
2 third degree, unless it is shown on the trial of the offense that
3 the person had previously been convicted under this section on two
4 or more occasions, in which event the offense is a felony of the
5 second degree. An offense under Subsection (a)(2) or (a)(3) is a
6 state jail felony [~~Class A misdemeanor~~], unless the person commits
7 the offense with the intent to defraud or harm another, in which
8 event the offense is a [~~state jail~~] felony of the third degree.

9 SECTION 10. The changes in law made by this Act apply only
10 to an offense committed on or after the effective date of this Act.
11 An offense committed before the effective date of this Act is
12 governed by the law in effect on the date the offense was committed,
13 and the former law is continued in effect for that purpose. For
14 purposes of this section, an offense was committed before the
15 effective date of this Act if any element of the offense was
16 committed before that date.

17 SECTION 11. The changes in law made by this Act in amending
18 Article [12.01](#), Code of Criminal Procedure, do not apply to an
19 offense if the prosecution of that offense becomes barred by
20 limitation before the effective date of this Act. The prosecution
21 of that offense remains barred as if this Act had not taken effect.

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