

BILL ANALYSIS

S.B. 1781
By: Carona
Civil Practices
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law requires a person with a right of action for recovery of real property to bring suit within four years from the day an instrument affecting real property was recorded. This provides a mechanism for property owners to remove defects and clear title to the property.

As proposed, S.B. 1781 decreases the time period required to clear defects in title from four years to two years and makes this provision applicable to easements and leases. The bill also provides that an instrument affecting real property that contains an acknowledgement with a defect and that has been filed for longer than two years will be considered to have been lawfully recorded and to provide required notice of the existence of the instrument.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 16.033, Civil Practice and Remedies Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Requires a person with a right of action for the recovery of real property or an interest in real property conveyed by an instrument with certain defects to bring suit not later than two years, rather than four years, after the day the instrument was filed for record, rather than recorded, with the county clerk of the county where the real property is located. Provides that failure of the record or instrument to show or include an acknowledgment or jurat that complies with applicable law constitutes a defect to which this section applies.

(c) Provides that, for the purposes of this section, an instrument affecting real property containing a defect, omission, or informality in the certificate of acknowledgement or failing to contain a certificate of acknowledgement and that has been filed for record for longer than two years in the office of the county recorder of the county in which the property is located is considered to have been lawfully recorded and to be notice of the existence of the instrument on and after the date the instrument is filed.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.