

By: Carona

S.B. No. 1781

A BILL TO BE ENTITLED

1 AN ACT

2 relating to technical defects in instruments conveying real
3 property.

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

5 SECTION 1. Section 16.033, Civil Practice and Remedies
6 Code, is amended by amending Subsection (a) and adding Subsection
7 (c) to read as follows:

8 (a) A person with a right of action for the recovery of real
9 property or an interest in real property conveyed by an instrument
10 with one of the following defects must bring suit not later than two
11 [~~four~~] years after the day the instrument was filed for record
12 [~~recorded~~] with the county clerk of the county where the real
13 property is located:

14 (1) lack of the signature of a proper corporate
15 officer, partner, or company officer, manager, or member;

16 (2) lack of a corporate seal;

17 (3) failure of the record to show the corporate seal
18 used;

19 (4) failure of the record to show authority of the
20 board of directors or stockholders of a corporation, partners of a
21 partnership, or officers, managers, or members of a company;

22 (5) execution and delivery of the instrument by a
23 corporation, partnership, or other company that had been dissolved,
24 whose charter had expired, or whose franchise had been canceled,

1 withdrawn, or forfeited;

2 (6) acknowledgment of the instrument in an individual,
3 rather than a representative or official, capacity;

4 (7) execution of the instrument by a trustee without
5 record of the authority of the trustee or proof of the facts recited
6 in the instrument;

7 (8) failure of the record or instrument to show or
8 include an acknowledgment or jurat that complies with applicable
9 law; or

10 (9) wording of the stated consideration that may or
11 might create an implied lien in favor of the grantor.

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

21 SECTION 2. The change in law made by this Act applies only
22 to an instrument filed for record on or after September 1, 2007. An
23 instrument filed for record before September 1, 2007, is governed
24 by the law in effect immediately before that date, and that law is
25 continued in effect for that purpose.

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2007.