

AN ACT

relating to technical defects in instruments conveying real property.

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

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

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

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

(2) lack of a corporate seal;

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

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

(5) execution and delivery of the instrument by a corporation, partnership, or other company that had been dissolved, 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1 withdrawn, or forfeited;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 an
8 acknowledgment or jurat that complies with applicable law; or

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

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

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

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

1 Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1781 passed the Senate on April 19, 2007, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 21, 2007, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1781 passed the House, with amendment, on May 17, 2007, by the following vote: Yeas 143, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor