

1-1 By: Carona S.B. No. 1781
1-2 (In the Senate - Filed March 9, 2007; March 21, 2007, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 April 12, 2007, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; April 12, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to technical defects in instruments conveying real
1-9 property.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 16.033, Civil Practice and Remedies
1-12 Code, is amended by amending Subsection (a) and adding Subsection
1-13 (c) to read as follows:

1-14 (a) A person with a right of action for the recovery of real
1-15 property or an interest in real property conveyed by an instrument
1-16 with one of the following defects must bring suit not later than two
1-17 [~~four~~] years after the day the instrument was filed for record
1-18 [~~recorded~~] with the county clerk of the county where the real
1-19 property is located:

1-20 (1) lack of the signature of a proper corporate
1-21 officer, partner, or company officer, manager, or member;

1-22 (2) lack of a corporate seal;

1-23 (3) failure of the record to show the corporate seal
1-24 used;

1-25 (4) failure of the record to show authority of the
1-26 board of directors or stockholders of a corporation, partners of a
1-27 partnership, or officers, managers, or members of a company;

1-28 (5) execution and delivery of the instrument by a
1-29 corporation, partnership, or other company that had been dissolved,
1-30 whose charter had expired, or whose franchise had been canceled,
1-31 withdrawn, or forfeited;

1-32 (6) acknowledgment of the instrument in an individual,
1-33 rather than a representative or official, capacity;

1-34 (7) execution of the instrument by a trustee without
1-35 record of the authority of the trustee or proof of the facts recited
1-36 in the instrument;

1-37 (8) failure of the record or instrument to show or
1-38 include an acknowledgment or jurat that complies with applicable
1-39 law; or

1-40 (9) wording of the stated consideration that may or
1-41 might create an implied lien in favor of the grantor.

1-42 (c) For the purposes of this section, an instrument
1-43 affecting real property containing a defect, omission, or
1-44 informality in the certificate of acknowledgment or failing to
1-45 contain a certificate of acknowledgment and that has been filed for
1-46 record for longer than two years in the office of the county
1-47 recorder of the county in which the property is located is
1-48 considered to have been lawfully recorded and to be notice of the
1-49 existence of the instrument on and after the date the instrument is
1-50 filed.

1-51 SECTION 2. The change in law made by this Act applies only
1-52 to an instrument filed for record on or after the effective date of
1-53 this Act. An instrument filed for record before the effective date
1-54 of this Act is governed by the law in effect immediately before that
1-55 date, and that law is continued in effect for that purpose.

1-56 SECTION 3. This Act takes effect immediately if it receives
1-57 a vote of two-thirds of all the members elected to each house, as
1-58 provided by Section 39, Article III, Texas Constitution. If this
1-59 Act does not receive the vote necessary for immediate effect, this
1-60 Act takes effect September 1, 2007.

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