

BILL ANALYSIS

Senate Research Center
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S.B. 485
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Jurisprudence
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 485 would amend Chapter 13 (Venue), Code of Criminal Procedure, by adding a section specifying the venue for the prosecution of mortgage fraud.

This legislation will allow for the prosecution of mortgage fraud in the county where the property is located or in the county where the transaction or the generation of mortgage documents occurred.

An abundance of cases involving fraudulent transactions in real estate occur *outside* of major cities, for example, in Bastrop or Georgetown, but the fraudulent documents are created and executed at offices in the local major city, i.e., Austin. Thus, the prosecution for a mortgage fraud case may involve property not within the jurisdiction of the county where the prosecution is instituted. The result is a mortgage on a property in a rural county, but the contract was signed in a city in another county. If there is an issue of mortgage fraud, the prosecution can only take place under current legal precedents in the jurisdiction where the fraud was actually committed, the county with the city or town where the contract was signed.

This has two major, negative effects: the area most subject to the negative implications of mortgage fraud—the neighborhood surrounding the property in question—does not get to play a role in bringing the criminals to justice; and this has led to a disproportionate responsibility on the two largest cities in Texas, Dallas and Houston, for mortgage fraud investigations and prosecutions even though a number of these cases involve property located outside Dallas and Harris Counties. This results in an enormous caseload, a backlog of cases, and the inability to bring justice within a reasonable amount of time.

S.B. 485 would allow cases of mortgage fraud to be prosecuted in either the county where the fraud was committed or in the county where the property is located.

As proposed, S.B. 485 amends current law relating to proper venue for certain criminal prosecutions of mortgage fraud.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 13, Code of Criminal Procedure, by adding Article 13.271, as follows:

Art. 13.271. PROSECUTION OF MORTGAGE FRAUD. (a) Defines "real estate transaction" in this article.

(b) Authorizes any offense under Chapter 32 (Fraud), Penal Code, that involves a real estate transaction to be prosecuted in:

(1) the county where the property is located; or

(2) any county in which part of the transaction occurred, including the generation of documentation supporting the transaction.

(c) Authorizes an offense under Section 32.46 (Securing Execution of Document by Deception), 32.48 (Simulating Legal Process), or 32.49 (Refusal to Execute Release of Fraudulent Lien or Claim), Penal Code, that involves a real estate transaction to also be prosecuted in any county authorized by Article 13.27 (Simulating Legal Process).

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2011.