

By: Uresti

S.B. No. 1496

A BILL TO BE ENTITLED

AN ACT

relating to the scope and validity of correction instruments in the conveyance of real property.

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

SECTION 1. Subchapter B, Chapter 5, Property Code, is amended by adding Sections 5.027, 5.028, 5.029, 5.030, and 5.031 to read as follows:

Sec. 5.027. CORRECTION INSTRUMENTS: GENERALLY. (a) A correction instrument that complies with Section 5.028 or 5.029 may correct an ambiguity or error in a recorded original instrument of conveyance to transfer real property or an interest in real property, including an ambiguity or error that relates to the description of or extent of the interest conveyed.

(b) A correction instrument may not correct an ambiguity or error in a recorded original instrument of conveyance to transfer real property or an interest in real property not originally conveyed in the instrument of conveyance for purposes of a sale of real property under a power of sale under Chapter 51 unless the conveyance otherwise complies with all requirements of Chapter 51.

(c) A correction instrument is subject to Section 13.001.

Sec. 5.028. CORRECTION INSTRUMENTS: NONMATERIAL CORRECTIONS. (a) A person who has personal knowledge of facts relevant to the correction of a recorded original instrument of conveyance may execute a correction instrument to make a

1 nonmaterial change that results from a clerical error, including:

2 (1) a correction of an inaccurate or incorrect element
3 in a legal description, such as a distance, angle, direction,
4 bearing or chord, a lot, block, unit, building designation or
5 section number, an appurtenant easement, a township name or number,
6 a municipality, county, or state name, a range number or meridian, a
7 certified survey map number, or a subdivision or condominium name;
8 or

9 (2) an addition, correction, or clarification of:

10 (A) a party's name, including the spelling of a
11 name, a first or middle name or initial, a suffix, an alternate name
12 by which a party is known, or a description of an entity as a
13 corporation, company, or other type of organization;

14 (B) a party's marital status;

15 (C) the date on which the conveyance was
16 executed;

17 (D) the recording data for an instrument
18 referenced in the correction instrument; or

19 (E) a fact relating to the acknowledgment or
20 authentication.

21 (b) A person who executes a correction instrument under this
22 section may execute a correction instrument that provides an
23 acknowledgment or authentication that is required and was not
24 included in the recorded original instrument of conveyance.

25 (c) A person who executes a correction instrument under this
26 section shall disclose in the instrument the basis for the person's
27 personal knowledge of the facts relevant to the correction of the

1 recorded original instrument of conveyance.

2 (d) A person who executes a correction instrument under this
3 section shall:

4 (1) record the instrument and evidence of notice as
5 provided by Subdivision (2), if applicable, in each county in which
6 the original instrument of conveyance being corrected is recorded;
7 and

8 (2) if the correction instrument is not signed by each
9 party to the recorded original instrument, send a copy of the
10 correction instrument and notice by first class mail, e-mail, or
11 other reasonable means to each party to the original instrument of
12 conveyance and, if applicable, a party's heirs, successors, or
13 assigns.

14 Sec. 5.029. CORRECTION INSTRUMENTS: MATERIAL CORRECTIONS.

15 (a) In addition to nonmaterial corrections, including the
16 corrections described by Section 5.028, the parties to the original
17 transaction or the parties' heirs, successors, or assigns, as
18 applicable may execute a correction instrument to make a material
19 correction to the recorded original instrument of conveyance,
20 including a correction to:

21 (1) add:

22 (A) a buyer's disclaimer of an interest in the
23 real property that is the subject of the original instrument of
24 conveyance;

25 (B) a mortgagee's consent or subordination to a
26 recorded document executed by the mortgagee or an heir, successor,
27 or assign of the mortgagee; or

1 (C) land to a conveyance that correctly conveys
2 other land;

3 (2) remove land from a conveyance that correctly
4 conveys other land; or

5 (3) accurately identify a lot or unit number or letter
6 of property owned by the grantor that was inaccurately identified
7 as another lot or unit number or letter of property owned by the
8 grantor in the recorded original instrument of conveyance.

9 (b) A correction instrument under this section must be:

10 (1) executed by each party to the recorded original
11 instrument of conveyance the correction instrument is executed to
12 correct or, if applicable, a party's heirs, successors, or assigns;
13 and

14 (2) recorded in each county in which the original
15 instrument of conveyance that is being corrected is recorded.

16 Sec. 5.030. CORRECTION INSTRUMENT: EFFECT. (a) A
17 correction instrument that complies with Section 5.028 or 5.029 is:

18 (1) effective as of the effective date of the recorded
19 original instrument of conveyance;

20 (2) prima facie evidence of the facts stated in the
21 correction instrument;

22 (3) presumed to be true;

23 (4) subject to rebuttal; and

24 (5) notice to a subsequent buyer of the facts stated in
25 the correction instrument.

26 (b) A bona fide purchaser of property that is subject to a
27 correction instrument may rely on the instrument against any person

1 making an adverse or inconsistent claim.

2 Sec. 5.031. CORRECTION INSTRUMENTS RECORDED BEFORE
3 SEPTEMBER 1, 2011. A correction instrument recorded before
4 September 1, 2011, that substantially complies with Section 5.028
5 or 5.029 and that purports to correct a recorded original
6 instrument of conveyance is effective to the same extent as
7 provided by Section 5.030 unless a court of competent jurisdiction
8 renders a final judgment determining that the correction instrument
9 does not substantially comply with Section 5.028 or 5.029.

10 SECTION 2. This Act takes effect September 1, 2011.