

1-1 By: Uresti S.B. No. 1496
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 11, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 11, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1496 By: Gallegos

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the scope and validity of correction instruments in the
1-11 conveyance of real property.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter B, Chapter 5, Property Code, is
1-14 amended by adding Sections 5.027, 5.028, 5.029, 5.030, and 5.031 to
1-15 read as follows:

1-16 Sec. 5.027. CORRECTION INSTRUMENTS: GENERALLY. (a) A
1-17 correction instrument that complies with Section 5.028 or 5.029 may
1-18 correct an ambiguity or error in a recorded original instrument of
1-19 conveyance to transfer real property or an interest in real
1-20 property, including an ambiguity or error that relates to the
1-21 description of or extent of the interest conveyed.

1-22 (b) A correction instrument may not correct an ambiguity or
1-23 error in a recorded original instrument of conveyance to transfer
1-24 real property or an interest in real property not originally
1-25 conveyed in the instrument of conveyance for purposes of a sale of
1-26 real property under a power of sale under Chapter 51 unless the
1-27 conveyance otherwise complies with all requirements of Chapter 51.

1-28 (c) A correction instrument is subject to Section 13.001.

1-29 Sec. 5.028. CORRECTION INSTRUMENTS: NONMATERIAL
1-30 CORRECTIONS. (a) A person who has personal knowledge of facts
1-31 relevant to the correction of a recorded original instrument of
1-32 conveyance may execute a correction instrument to make a
1-33 nonmaterial change that results from a clerical error, including:

1-34 (1) a correction of an inaccurate or incorrect element
1-35 in a legal description, such as a distance, angle, direction,
1-36 bearing or chord, a lot, block, unit, building designation or
1-37 section number, an appurtenant easement, a township name or number,
1-38 a municipality, county, or state name, a range number or meridian, a
1-39 certified survey map number, or a subdivision or condominium name;
1-40 or

1-41 (2) an addition, correction, or clarification of:

1-42 (A) a party's name, including the spelling of a
1-43 name, a first or middle name or initial, a suffix, an alternate name
1-44 by which a party is known, or a description of an entity as a
1-45 corporation, company, or other type of organization;

1-46 (B) a party's marital status;

1-47 (C) the date on which the conveyance was
1-48 executed;

1-49 (D) the recording data for an instrument
1-50 referenced in the correction instrument; or

1-51 (E) a fact relating to the acknowledgment or
1-52 authentication.

1-53 (b) A person who executes a correction instrument under this
1-54 section may execute a correction instrument that provides an
1-55 acknowledgment or authentication that is required and was not
1-56 included in the recorded original instrument of conveyance.

1-57 (c) A person who executes a correction instrument under this
1-58 section shall disclose in the instrument the basis for the person's
1-59 personal knowledge of the facts relevant to the correction of the
1-60 recorded original instrument of conveyance.

1-61 (d) A person who executes a correction instrument under this
1-62 section shall:

1-63 (1) record the instrument and evidence of notice as

2-1 provided by Subdivision (2), if applicable, in each county in which
2-2 the original instrument of conveyance being corrected is recorded;
2-3 and

2-4 (2) if the correction instrument is not signed by each
2-5 party to the recorded original instrument, send a copy of the
2-6 correction instrument and notice by first class mail, e-mail, or
2-7 other reasonable means to each party to the original instrument of
2-8 conveyance and, if applicable, a party's heirs, successors, or
2-9 assigns.

2-10 Sec. 5.029. CORRECTION INSTRUMENTS: MATERIAL CORRECTIONS.
2-11 (a) In addition to nonmaterial corrections, including the
2-12 corrections described by Section 5.028, the parties to the original
2-13 transaction or the parties' heirs, successors, or assigns, as
2-14 applicable may execute a correction instrument to make a material
2-15 correction to the recorded original instrument of conveyance,
2-16 including a correction to:

2-17 (1) add:
2-18 (A) a buyer's disclaimer of an interest in the
2-19 real property that is the subject of the original instrument of
2-20 conveyance;

2-21 (B) a mortgagee's consent or subordination to a
2-22 recorded document executed by the mortgagee or an heir, successor,
2-23 or assign of the mortgagee; or

2-24 (C) land to a conveyance that correctly conveys
2-25 other land;

2-26 (2) remove land from a conveyance that correctly
2-27 conveys other land; or

2-28 (3) accurately identify a lot or unit number or letter
2-29 of property owned by the grantor that was inaccurately identified
2-30 as another lot or unit number or letter of property owned by the
2-31 grantor in the recorded original instrument of conveyance.

2-32 (b) A correction instrument under this section must be:

2-33 (1) executed by each party to the recorded original
2-34 instrument of conveyance the correction instrument is executed to
2-35 correct or, if applicable, a party's heirs, successors, or assigns;
2-36 and

2-37 (2) recorded in each county in which the original
2-38 instrument of conveyance that is being corrected is recorded.

2-39 Sec. 5.030. CORRECTION INSTRUMENT: EFFECT. (a) A
2-40 correction instrument that complies with Section 5.028 or 5.029 is:

2-41 (1) effective as of the effective date of the recorded
2-42 original instrument of conveyance;

2-43 (2) prima facie evidence of the facts stated in the
2-44 correction instrument;

2-45 (3) presumed to be true;

2-46 (4) subject to rebuttal; and

2-47 (5) notice to a subsequent buyer of the facts stated in
2-48 the correction instrument.

2-49 (b) A bona fide purchaser of property that is subject to a
2-50 correction instrument may rely on the instrument against any person
2-51 making an adverse or inconsistent claim.

2-52 Sec. 5.031. CORRECTION INSTRUMENTS RECORDED BEFORE
2-53 SEPTEMBER 1, 2011. A correction instrument recorded before
2-54 September 1, 2011, that substantially complies with Section 5.028
2-55 or 5.029 and that purports to correct a recorded original
2-56 instrument of conveyance is effective to the same extent as
2-57 provided by Section 5.030 unless a court of competent jurisdiction
2-58 renders a final judgment determining that the correction instrument
2-59 does not substantially comply with Section 5.028 or 5.029.

2-60 SECTION 2. This Act takes effect September 1, 2011.

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