By:  Darby (Senate Sponsor - Menéndez) H.B. No. 1176

(In the Senate - Received from the House April 26, 2019; April 29, 2019, read first time and referred to Committee on State Affairs; May 10, 2019, reported favorably by the following vote: Yeas 7, Nays 1; May 10, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Huffman         X

Hughes              X

Birdwell        X

Creighton                 X

Fallon          X

Hall            X

Lucio           X

Nelson          X

Zaffirini       X

A BILL TO BE ENTITLED

AN ACT

relating to technical defects in instruments affecting real property.

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

SECTION 1.  Sections 16.033(a) and (c), Civil Practice and Remedies Code, are amended 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 years after the day the instrument was filed for record 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partnership, or other company that had been dissolved, whose charter had expired, or whose franchise had been canceled, withdrawn, or forfeited;

(6)  [~~acknowledgment of the instrument in an individual, rather than a representative or official, capacity;~~

[~~(7)~~]  execution of the instrument by a trustee without record of the authority of the trustee or proof of the facts recited in the instrument;

[~~(8)  failure of the record or instrument to show an acknowledgment or jurat that complies with applicable law;~~] or

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

(c)  An [~~For the purposes of this section, an~~] instrument affecting real property containing a [~~ministerial~~] defect in, omission of, or informality in the [~~certificate of~~] acknowledgment that has been filed for record for longer than six months [~~two years~~] in the office of the county recorder of the county in which the property is located is considered to have been lawfully recorded and to be notice of the existence of the instrument on and after the date the instrument is filed.

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

SECTION 3.  This Act takes effect September 1, 2019.

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