

By: Darby

H.B. No. 1176

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partnership, or other company that had been dissolved, whose charter had expired, or whose franchise had been canceled, withdrawn, or forfeited;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~~

1 ~~individual, rather than a representative or official, capacity;~~

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

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

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

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

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

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