

By: Creighton

S.B. No. 2128

A BILL TO BE ENTITLED

AN ACT

relating to the recording by a county clerk of certain documents concerning real or personal property.

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

SECTION 1. Section 193.003(b), Local Government Code, is amended to read as follows:

(b) The index must be a cross-index that contains the names of the grantors and grantees in alphabetical order. If a deed is made by a sheriff, the index entry must contain the name of the sheriff and the defendant in execution. If a deed is made by an executor, administrator, or guardian, the index entry must contain the name of that person and the name of the person's testator, intestate, or ward. If a deed is made by an attorney, the index entry must contain the name of the attorney and the attorney's constituents. If a deed is made by a commissioner or trustee, the index entry must contain the name of the commissioner or trustee and the name of the person whose estate is conveyed. The index entry for a correction instrument must contain the names of the grantors and grantees as stated in the correction instrument. The index entry for a paper document described by Section 12.0011(b)(3), Property Code, must contain the names of the grantors and grantees.

SECTION 2. Section 12.0011(b), Property Code, is amended to read as follows:

(b) A paper document concerning real or personal property

may not be recorded or serve as notice of the paper document unless:

(1) the paper document contains an original signature or signatures that are acknowledged, sworn to with a proper jurat, or proved according to law; ~~or~~

(2) the paper document is attached as an exhibit to a paper affidavit or other document that has an original signature or signatures that are acknowledged, sworn to with a proper jurat, or proved according to law; or

(3) the paper document is a tangible copy of an electronic record certified as provided by Section 12.0013 by a notary public or other officer who may take an acknowledgment or proof of a written instrument under Section 121.001, Civil Practice and Remedies Code.

SECTION 3. Chapter 12, Property Code, is amended by adding Section 12.0013 to read as follows:

Sec. 12.0013. RECORDATION OF PAPER OR TANGIBLE COPY OF ELECTRONIC RECORD. (a) In this section:

(1) "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(2) "Electronic," "electronic record," and "electronic signature" have the meanings assigned by Section 322.002, Business & Commerce Code.

(b) A county clerk shall record a paper or tangible copy of an electronic record that is otherwise eligible under state law to be recorded in the real property records if the paper or tangible copy of the electronic record:

1 (1) contains an electronic signature or signatures
2 that are acknowledged, sworn to with a proper jurat, or proved
3 according to law; and

4 (2) has been certified by a notary public or other
5 officer who may take an acknowledgment or proof under Section
6 121.001, Civil Practice and Remedies Code, to be a true and correct
7 copy of the electronic record as provided by Subsection (d).

8 (c) A document that is a paper or tangible copy of an
9 electronic record and is printed and certified to be a true and
10 correct copy as provided by Subsection (d) satisfies any
11 requirement of law that, as a condition for recording, the
12 document:

13 (1) be an original or be in writing;

14 (2) be signed or contain an original signature, if the
15 document contains an electronic signature of the person required to
16 sign the document; and

17 (3) be notarized, acknowledged, verified, witnessed,
18 made under oath, sworn to with a proper jurat, or proved according
19 to law, if the document contains an electronic signature of the
20 person authorized to perform that act and all other information
21 required to be included.

22 (d) A notary public or other officer who may take an
23 acknowledgment or proof under Section 121.001, Civil Practice and
24 Remedies Code, may certify that a paper or tangible copy of an
25 electronic record is a true and correct copy of an electronic record
26 by:

27 (1) executing and attaching an official seal to a

1 tangible paper certificate under penalty of perjury; and

2 (2) affixing or attaching the certificate to the
3 printed paper or tangible copy of an electronic record.

4 (e) The form of certificate required under Subsection (d)
5 must be substantially as follows:

6 DECLARATION OF AUTHENTICITY

7 State of _____

8 County of _____

9 I certify that the attached document,
10 _____ (insert title), dated _____ and containing
11 __ pages, is a true and correct copy of an electronic record printed
12 by me or under my supervision. I further certify that, at the time
13 of printing, no security features present on the electronic record
14 indicated any changes or errors in an electronic signature or other
15 information in the electronic record after the electronic record's
16 creation or execution. This certification is made under penalty of
17 perjury.

18 Signed this ____ day of _____, ____.

19 _____ (signature of notary public or other officer)

20 (seal of office)

21 _____ (printed name of notary public or other officer)

22 My commission expires: _____

23 SECTION 4. This Act takes effect September 1, 2019.