

By: Menéndez

S.B. No. 2402

A BILL TO BE ENTITLED

AN ACT

1
2 relating to technical defects in instruments affecting real
3 property.

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

5 SECTION 1. Sections 16.033(a) and (c), Civil Practice and
6 Remedies Code, are amended to read as follows:

7 (a) A person with a right of action for the recovery of real
8 property or an interest in real property conveyed by an instrument
9 with one of the following defects must bring suit not later than six
10 months [~~two years~~] after the day the instrument was filed for record
11 with the county clerk of the county where the real property is
12 located:

13 (1) lack of the signature of a proper corporate
14 officer, partner, or company officer, manager, or member;

15 (2) lack of a corporate seal;

16 (3) failure of the record to show the corporate seal
17 used;

18 (4) failure of the record to show authority of the
19 board of directors or stockholders of a corporation, partners of a
20 partnership, or officers, managers, or members of a company;

21 (5) execution and delivery of the instrument by a
22 corporation, partnership, or other company that had been dissolved,
23 whose charter had expired, or whose franchise had been canceled,
24 withdrawn, or forfeited;

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

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

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

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

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

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

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