

BILL ANALYSIS

Senate Research Center

S.B. 30
By: West et al.
State Affairs
6/1/2021
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In thousands of real property deeds across the state, there are racist restrictions barring families of color from moving into these homes. Although these racially restrictive provisions are no longer enforceable, they are still a reminder of the systemic and segregationist housing practices that limited the upward mobility of millions of people of color.

Currently, there is no across-the-board mechanism for removing these types of racist restrictions from property records.

S.B. 30 allows for these restrictions to be removed from real property records through the county clerk's office of the county in which the real property is located.

- After requesting through a form that the provisions be removed, the county clerk has 30 days to determine whether the restriction is void under Section 5.026(a) of the Property Code.
- If void, the restriction will be removed. If not, the requestor will be notified by the county clerk.

S.B. 30 requires the attorney general to develop the form required for the county clerk offices.

S.B. 30 also requires all county clerks to make this form available on their websites.

S.B. 30 amends current law relating to the removal of certain discriminatory provisions from a recorded conveyance instrument.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Requires that this Act be known as the Senator Royce West Act.

SECTION 2. Amends Subchapter B, Chapter 5, Property Code, by adding Section 5.0261, as follows:

Sec. 5.0261. REMOVAL OF DISCRIMINATORY PROVISION FROM RECORDED CONVEYANCE INSTRUMENT. (a) Defines "discriminatory provision."

(b) Authorizes a person who owns real property or an interest in real property the chain of title for which includes a recorded conveyance instrument containing a discriminatory provision, or another person with the permission of the owner, to request the removal of the discriminatory provision from the instrument by completing and filing, with the clerk of a district court in the county in whose real property records the instrument is recorded or of another court having jurisdiction over real property matters in the county, a motion, verified by affidavit by a

completed form for ordinary certificate of acknowledgment of the same type described by Section 121.007 (Form for Ordinary Certificate of Acknowledgment), Civil Practice and Remedies Code, that contains, at a minimum, the information in a certain suggested form. Sets forth the suggested text of the form.

(c) Requires that the completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, be in a certain manner. Sets forth the required text of the form.

(d) Authorizes a motion under this section to be ruled on by a court having jurisdiction over real property matters in the county where the subject conveyance instrument was filed. Authorizes the court's finding to be made solely on a review of the conveyance instrument attached to the motion and without hearing any testimonial evidence. Authorizes the court's review to be made ex parte without delay or notice of any kind. Provides that if the court does not rule on the motion on or before the 15th day after the date the motion is filed, the motion is deemed granted. Requires an appellate court to expedite review of a court's finding under this section.

(e) Prohibits a court clerk from collecting a filing fee for filing a motion under this section.

(f) Requires the court, after reviewing the conveyance instrument attached to a motion filed under this section, to enter an appropriate finding of fact and conclusion of law.

(g) Requires that the court's finding of fact and conclusion of law be:

(1) transferred by the court clerk to the county clerk for recording and indexing not later than the 10th day after the date the finding of fact and conclusion of law is entered by the court or deemed granted under Subsection (d); and

(2) filed and indexed by the county clerk in the same class of records in which the subject conveyance instrument is filed.

(h) Prohibits the county clerk from collecting a fee for filing a court's finding of fact and conclusion of law under this section.

(i) Provides for a suggested form of order appropriate to comply with Subsection (f). Sets forth the suggested text of the form.

SECTION 3. Amends Sections 193.003(a) and (b), Local Government Code, as follows:

(a) Requires the county clerk to maintain an alphabetical index to certain instruments relating to real property, including findings of fact and conclusions of law entered under Section 5.0261, Property Code.

(b) Requires that the index entry for a finding of fact and conclusion of law entered under Section 5.0261, Property Code, contain the names of the grantors and grantees as stated in the subject conveyance instrument.

SECTION 4. Effective date: September 1, 2021.