

## **BILL ANALYSIS**

C.S.S.B. 30  
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Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In Texas, if a restriction that affects real property, or a provision in a deed that conveys real property or an interest in real property, prohibits the use by or the sale, lease, or transfer to a person because of race, color, religion, or national origin, that restriction or provision is considered discriminatory and is void. While these discriminatory provisions are not enforceable, there are concerns that many deeds and other instruments still contain them. C.S.S.B. 30 seeks to establish a mechanism for the removal of discriminatory provisions from a recorded conveyance instrument or document.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 30 amends the Property Code to authorize a person who owns real property or an interest in real property the chain of title for which includes a recorded conveyance instrument or document containing a discriminatory provision to request the removal of the discriminatory provision from the instrument or document by completing and filing a motion with the clerk of a district court in the county in whose real property records the instrument or document is recorded or of another court having jurisdiction over real property matters in the county. The motion must be verified by affidavit by a completed form for ordinary certificate of acknowledgment of a specified type and must contain, at a minimum, the information specified in the suggested form prescribed by the bill. The bill defines "discriminatory provision" as a restriction that affects real property, or a provision in a deed that conveys real property or an interest in real property, whether express or incorporated by reference, that is void because the provision or restriction prohibits the use by or the sale, lease, or transfer to a person because of race, color, religion, or national origin.

C.S.S.B. 30 authorizes the motion to be ruled on by a court having jurisdiction over real property matters in the county where the subject document was filed and authorizes the court's finding to be made solely on a review of the conveyance instrument or document attached to the motion and without hearing any testimonial evidence. The court's review may be made ex parte without delay or notice of any kind. 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. The bill requires an appellate court to expedite review of the court's finding.

C.S.S.B. 30 prohibits the court clerk from collecting a filing fee for filing the motion. The bill requires the court, after reviewing the conveyance instrument or document attached to the motion, to enter an appropriate finding of fact and conclusion of law and prescribes a suggested form of order appropriate to comply with that requirement. The suggested form provides for the court to indicate either that the conveyance instrument or document contains a discriminatory provision to be removed or that it does not contain such a provision. The bill requires the court's finding of fact and conclusion of law to be transferred by the court clerk to the county clerk for recording and indexing by a certain deadline and to be filed and indexed by the county clerk in the same class of records in which the subject conveyance instrument or document is filed. The bill prohibits the county clerk from collecting a fee for filing the finding of fact and conclusion of law.

C.S.S.B. 30 amends the Local Government Code to require a county clerk to maintain an alphabetical index to all findings of fact and conclusions of law entered under the bill's provisions. The index entry for such a finding of fact and conclusion of law must contain the names of the grantors and grantees as stated in the subject conveyance instrument or document.

### **EFFECTIVE DATE**

September 1, 2021.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 30 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

While the engrossed and substitute both establish a process for the removal of discriminatory provisions that are void under state law, the processes established are entirely different. The engrossed established a process under which applicable property owners may submit a request for removal of a discriminatory provision from deeds or other instruments recorded in a county's real property records to the appropriate county clerk, who is required to determine whether the provision identified in the request is void and, if so, remove the provision. The substitute establishes a judicial process instead under which applicable property owners may file a motion requesting removal of a discriminatory provision from a recorded conveyance instrument or document with an appropriate court, which reviews the instrument or document, without needing to hear testimony, and makes an appropriate finding of fact and conclusion of law to be filed in the county property records.

The removal process established by the engrossed was set to take effect January 1, 2022, whereas the substitute takes effect September 1, 2021.