87R13193 BEE-F

By:  Murr, Cain, Lambert, Shine, Patterson H.B. No. 2424

A BILL TO BE ENTITLED

AN ACT

relating to the exclusion of certain conveyances from classification as pretended sales.

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

SECTION 1.  Subchapter A, Chapter 41, Property Code, is amended by adding Section 41.0022 to read as follows:

Sec. 41.0022.  CERTAIN CONVEYANCES NOT PRETENDED SALES. (a) In this section:

(1)  "Entity" means a domestic or foreign:

(A)  corporation, professional corporation, or professional association;

(B)  limited liability company or professional limited liability company; or

(C)  limited partnership.

(2)  "Parcel" means one or more parcels.

(b)  The conveyance of a parcel not meeting the definition of an urban homestead under Section 41.002(a) or (c) by an individual to an entity in which the individual or individual's spouse has a direct or indirect ownership interest is not a pretended sale under Section 50(c), Article XVI, Texas Constitution, if:

(1)  the deed conveying the parcel is recorded at least 30 days before the entity grants a mortgage, trust deed, or other lien on the parcel;

(2)  the individual does not reside on the parcel at the time of the conveyance;

(3)  the parcel is not contiguous to the parcel on which the individual resides;

(4)  the deed conveying the parcel does not contain a condition of defeasance; and

(5)  the individual recorded contemporaneously with the deed an affidavit substantially in the form prescribed by Subsection (d).

(c)  An individual executing a deed under Subsection (b) is estopped from claiming the conveyance is a pretended sale under Section 50(c), Article XVI, Texas Constitution.

(d)  At the time of recording a deed under Subsection (b), an individual grantor of the deed shall record an affidavit containing the following:

(1)  a title caption stating "Affidavit Regarding Conveyance To An Entity";

(2)  the date of the affidavit;

(3)  a description of the deed containing:

(A)  the title of the deed;

(B)  the date of the deed;

(C)  the name and address of the individual grantor; and

(D)  the name and address of the entity grantee;

(4)  a description of the parcel being conveyed to the entity;

(5)  a description of the parcel upon which the individual currently resides;

(6)  a statement that the parcel being conveyed is not contiguous to the parcel upon which the individual currently resides;

(7)  a statement that the parcel upon which the individual currently resides is not:

(A)  located within the limits of a municipality or its extraterritorial jurisdiction or a platted subdivision; or

(B)  served by police protection, paid or volunteer fire protection, and at least three of the following services provided by a municipality or under contract to a municipality:

(i)  electric;

(ii)  natural gas;

(iii)  sewer;

(iv)  storm sewer; or

(v)  water;

(8)  a statement that:

(A)  the individual is unmarried; or

(B)  the individual is married, and including the name of the individual's spouse;

(9)  a statement that the individual or individual's spouse owns a direct or indirect interest in the entity;

(10)  a statement that the individual has executed the deed conveying the parcel to the entity;

(11)  a statement that the individual intends to vest title in the entity;

(12)  a statement that there are no written or oral agreements regarding a defeasance of the parcel upon the passage of time or occurrence or non-occurrence of any event;

(13)  a statement that the individual acknowledges that the individual will be estopped from claiming the conveyance to the entity is a pretended sale under Section 50(c), Article XVI, Texas Constitution; and

(14)  a statement that the individual has had an opportunity:

(A)  to review the affidavit prior to the affidavit's execution; and

(B)  to consult with an attorney before the affidavit's execution, whether or not the opportunity to consult with an attorney was exercised.

(e)  If the individual conveying a parcel under Subsection (b) is married, the individual's spouse must join in the execution of:

(1)  the deed; and

(2)  the affidavit described by Subsection (d).

SECTION 2.  This Act takes effect September 1, 2021.