

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

7 Sec. 41.0022. CERTAIN CONVEYANCES NOT PRETENDED SALES. (a)

8 In this section:

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

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

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

14 (C) limited partnership.

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

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

21 (1) the deed conveying the parcel is recorded at least
22 30 days before the entity grants a mortgage, trust deed, or other
23 lien on the parcel;

24 (2) the individual does not reside on the parcel at the

1 time of the conveyance;

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

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

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

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

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

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

17 (2) the date of the affidavit;

18 (3) a description of the deed containing:

19 (A) the title of the deed;

20 (B) the date of the deed;

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

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

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

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

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

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

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

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

12 (i) electric;

13 (ii) natural gas;

14 (iii) sewer;

15 (iv) storm sewer; or

16 (v) water;

17 (8) a statement that:

18 (A) the individual is unmarried; or

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

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

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

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

27 (12) a statement that there are no written or oral

1 agreements regarding a defeasance of the parcel upon the passage of
2 time or occurrence or non-occurrence of any event;

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

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

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

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

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

17 (1) the deed; and

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

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