

By: Morales Shaw

H.B. No. 4255

A BILL TO BE ENTITLED

AN ACT

relating to the removal of certain unconstitutional provisions from
real property records.

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

SECTION 1. Chapter 11, Property Code, is amended by adding
Section 11.009 to read as follows:

Sec. 11.009. REMOVAL OF UNCONSTITUTIONAL PROVISIONS FROM
REAL PROPERTY RECORDS. (a) To the extent of any conflict between
this section and other law, this section prevails.

(b) An owner of real property may request, on a form
developed under Subsection (e), that the county clerk of a county in
which all or part of the property is located remove from a recorded
instrument affecting or conveying an interest in the property a
provision that:

(1) violates the United States Constitution;

(2) is unenforceable under law; and

(3) is unambiguously discriminatory.

(c) A county clerk may not charge a fee for filing a request
under this section.

(d) Not later than the 30th day after the date a county clerk
receives a request under Subsection (b), the county clerk shall
determine whether the provision identified in the request satisfies
the requirements of Subsection (b) and:

(1) if the county clerk determines the provision

1 identified in the request satisfies the requirements of Subsection
2 (b):

3 (A) shall remove the provision from the
4 instrument; and

5 (B) shall attach to the instrument a document
6 stating that a provision that satisfies the requirements of
7 Subsection (b) has been removed from the instrument; or

8 (2) if the county clerk determines the provision
9 identified in the request does not satisfy the requirements of
10 Subsection (b), notify the person who submitted the request that
11 the provision has not been removed.

12 (e) The supreme court shall develop the form required by
13 Subsection (b). The form must allow the person requesting the
14 removal of a provision under this section to provide:

15 (1) the name of the owner of the property that is the
16 subject of the request;

17 (2) a description of the property sufficient for a
18 county clerk to identify the recorded instrument that is the
19 subject of the request, including the address of the property, if
20 any; and

21 (3) the provision the owner believes satisfies the
22 requirements of Subsection (b).

23 (f) Each county clerk shall make:

24 (1) the form developed under Subsection (e) available
25 on the county clerk's Internet website; and

26 (2) copies of the form developed under Subsection (e)
27 available on request from the county clerk's office.

1 SECTION 2. Not later than December 1, 2021, the Texas
2 Supreme Court shall develop and make available to each county clerk
3 the form required by Section 11.009(e), Property Code, as added by
4 this Act.

5 SECTION 3. (a) Except as provided by Subsection (b) of this
6 section, this Act takes effect January 1, 2022.

7 (b) Section 2 of this Act takes effect September 1, 2021.