

By: West, et al.  
(Leach)

S.B. No. 30

Substitute the following for S.B. No. 30:

By: Davis

C.S.S.B. No. 30

A BILL TO BE ENTITLED

AN ACT

relating to the removal of certain discriminatory provisions from a recorded conveyance instrument or document.

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

SECTION 1. Subchapter B, Chapter 5, Property Code, is amended by adding Section 5.0261 to read as follows:

Sec. 5.0261. REMOVAL OF DISCRIMINATORY PROVISION FROM RECORDED CONVEYANCE INSTRUMENT OR DOCUMENT. (a) In this section, "discriminatory provision" means a restriction or provision that is void under Section 5.026(a).

(b) 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 may request the removal of the discriminatory provision from the instrument or document by completing and filing, 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, a motion, verified by affidavit by a completed form for ordinary certificate of acknowledgment of the same type described by Section 121.007, Civil Practice and Remedies Code, that contains, at a minimum, the information in the following suggested form:

MISC. DOCKET NO. \_\_\_\_\_

In Re: Conveyance Instrument

In the \_\_\_\_\_ Judicial District

1 with Discriminatory In and For  
2 Provision County, Texas

3 Motion for Judicial Review of Conveyance Instrument or Document  
4 Alleged to Contain a Discriminatory Provision as Defined by Section  
5 5.0261(a), Texas Property Code

6 Now Comes (name) and files this motion requesting a judicial  
7 determination of the status of a conveyance instrument or document  
8 that contains a discriminatory provision as defined by Section  
9 5.0261(a), Texas Property Code, filed in the office of the Clerk of  
10 (county name) County, Texas, and in support of the motion would show  
11 the court as follows:

12 I.

13 (Name), movant herein, is the person who owns the real  
14 property or the interest in real property described in the  
15 conveyance instrument or document.

16 II.

17 On (date), in the exercise of the county clerk's official  
18 duties as County Clerk of (county name) County, Texas, the county  
19 clerk received and filed and recorded the conveyance instrument or  
20 document attached hereto and containing (number) pages. The  
21 instrument is recorded at \_\_\_\_\_ in the real property records of  
22 \_\_\_\_\_ County. The conveyance instrument or document contains a  
23 discriminatory provision as defined by Section 5.0261(a), Texas  
24 Property Code.

25 III.

26 Movant alleges that the conveyance instrument or document  
27 attached hereto contains a discriminatory provision as defined by

1 Section 5.0261(a), Texas Property Code, and that the discriminatory  
2 provision should be removed.

3 IV.

4 Movant attests that assertions herein are true and correct.

5 V.

6 PRAYER

7 Movant requests the court to review the attached conveyance  
8 instrument or document and enter an order removing the  
9 discriminatory provision as defined by Section 5.0261(a), Texas  
10 Property Code, together with such other orders as the court deems  
11 appropriate.

12 Respectfully submitted,

13 \_\_\_\_\_

14 (Signature and typed name and address)

15 (c) The completed form for ordinary certificate of  
16 acknowledgment, of the same type described by Section 121.007,  
17 Civil Practice and Remedies Code, must be as follows:

18 AFFIDAVIT

19 THE STATE OF TEXAS

20 COUNTY OF \_\_\_\_\_

21 BEFORE ME, the undersigned authority, personally appeared  
22 \_\_\_\_\_, who, being by me duly sworn, deposed as follows:

23 "My name is \_\_\_\_\_. I am over 21 years of age, of  
24 sound mind, with personal knowledge of the following facts, and  
25 fully competent to testify.

26 I further attest that the assertions contained in the  
27 accompanying motion are true and correct."

1 Further affiant sayeth not.

2 \_\_\_\_\_  
3 SUBSCRIBED and SWORN TO before  
4 me, this \_\_\_\_\_ day of \_\_\_\_\_,  
5 \_\_\_\_\_.

6 \_\_\_\_\_  
7 NOTARY PUBLIC, State of Texas  
8 Notary's printed name:

9 \_\_\_\_\_  
10 My commission expires:  
11 \_\_\_\_\_  
12 \_\_\_\_\_

13 (d) A motion under this section may be ruled on by a court  
14 having jurisdiction over real property matters in the county where  
15 the subject document was filed. The court's finding may be made  
16 solely on a review of the conveyance instrument or document  
17 attached to the motion and without hearing any testimonial  
18 evidence. The court's review may be made ex parte without delay or  
19 notice of any kind. If the court does not rule on the motion on or  
20 before the 15th day after the date the motion is filed, the motion  
21 is deemed granted. An appellate court shall expedite review of a  
22 court's finding under this section.

23 (e) A court clerk may not collect a filing fee for filing a  
24 motion under this section.

25 (f) After reviewing the conveyance instrument or document  
26 attached to a motion filed under this section, the court shall enter  
27 an appropriate finding of fact and conclusion of law.

1 (g) The court's finding of fact and conclusion of law must  
2 be:

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

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

10 (h) The county clerk may not collect a fee for filing a  
11 court's finding of fact and conclusion of law under this section.

12 (i) A suggested form of order appropriate to comply with  
13 Subsection (f) is as follows:

14		<u>MISC. DOCKET NO. _____</u>
15	<u>In Re: Conveyance Instrument</u>	<u>In the _____ Judicial District</u>
16	<u>with Discriminatory</u>	<u>In and For _____</u>
17	<u>Provision</u>	<u>County, Texas</u>

18 Judicial Finding of Fact and Conclusion of Law Regarding Conveyance  
19 Instrument or Document Alleged to Contain a Discriminatory  
20 Provision as Defined by Section 5.0261(a), Texas Property Code

21 On the (number) day of (month), (year), in the above entitled  
22 and numbered cause, this court reviewed a motion, verified by  
23 affidavit, of (name) and the conveyance instrument or document  
24 attached thereto. No testimony was taken from any party, nor was  
25 there any notice of the court's review, the court having made the  
26 determination that a decision could be made solely on review of the  
27 conveyance instrument or document under the authority vested in the

1 court under Section 5.0261, Texas Property Code.

2 The court finds as follows (only an item checked and  
3 initialed is a valid court ruling):

4 \_\_\_\_\_ The conveyance instrument or document recorded at  
5 \_\_\_\_\_ in the real property records of \_\_\_\_\_ County CONTAINS a  
6 discriminatory provision as defined by Section 5.0261(a), Texas  
7 Property Code. The discriminatory provision as defined by Section  
8 5.0261(a), Texas Property Code, is void and removed from the  
9 conveyance instrument or document identified herein.

10 \_\_\_\_\_ The conveyance instrument or document recorded at  
11 \_\_\_\_\_ in the real property records of \_\_\_\_\_ County and attached  
12 to the motion herein DOES NOT CONTAIN a discriminatory provision as  
13 defined by Section 5.0261(a), Texas Property Code.

14 This court expressly limits its finding of fact and  
15 conclusion of law to the review of a ministerial act. The county  
16 clerk shall file this finding of fact and conclusion of law in the  
17 same class of records in which the subject conveyance instrument or  
18 document is filed, and the court directs the county clerk to index  
19 it using the same names used to index the subject conveyance  
20 instrument or document.

21 SIGNED ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_.

22 \_\_\_\_\_

23 JUDGE

24 \_\_\_\_\_ (Court)

25 \_\_\_\_\_ COUNTY, TEXAS

26 SECTION 2. Sections 193.003(a) and (b), Local Government  
27 Code, are amended to read as follows:

1 (a) The county clerk shall maintain an alphabetical index to  
2 all recorded deeds, powers of attorney, mortgages, correction  
3 instruments, findings of fact and conclusions of law entered under  
4 Section 5.0261, Property Code, and other instruments relating to  
5 real property. The index must state the specific location in the  
6 records at which the instruments are recorded.

7 (b) The index must be a cross-index that contains the names  
8 of the grantors and grantees in alphabetical order. If a deed is  
9 made by a sheriff, the index entry must contain the name of the  
10 sheriff and the defendant in execution. If a deed is made by an  
11 executor, administrator, or guardian, the index entry must contain  
12 the name of that person and the name of the person's testator,  
13 intestate, or ward. If a deed is made by an attorney, the index  
14 entry must contain the name of the attorney and the attorney's  
15 constituents. If a deed is made by a commissioner or trustee, the  
16 index entry must contain the name of the commissioner or trustee and  
17 the name of the person whose estate is conveyed. The index entry  
18 for a correction instrument must contain the names of the grantors  
19 and grantees as stated in the correction instrument. The index  
20 entry for a finding of fact and conclusion of law entered under  
21 Section 5.0261, Property Code, must contain the names of the  
22 grantors and grantees as stated in the subject conveyance  
23 instrument or document. The index entry for a paper document  
24 described by Section 12.0011(b)(3), Property Code, must contain the  
25 names of the grantors and grantees.

26 SECTION 3. This Act takes effect September 1, 2021.