

By: Longoria

H.B. No. 4281

A BILL TO BE ENTITLED

AN ACT

relating to an instrument that names a trust as a party.

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

SECTION 1. Subchapter D, Chapter 114, Property Code, is amended by adding Section 114.087 to read as follows:

Sec. 114.087. INSTRUMENT NAMING TRUST AS PARTY. (a) The trustee of a trust is considered for all purposes to be the named party to an instrument that names the trust as a party to the instrument in any capacity, unless the trust is a legal entity under state law.

(b) Subsection (a) is effective as of the effective date of the recorded original instrument.

(c) The trustee of a trust that is the named party to an instrument may be, but is not required to be, identified by a correction instrument under Section 5.028.

(d) A document purporting to be a certification of trust under Section 114.086 that is recorded in the county in which real property of the trust is located is presumed to correctly identify the trust and the trustee and may be relied upon by a good faith purchaser or lender for value.

SECTION 2. Section 5.028(a), Property Code, is amended to read as follows:

(a) A person who has personal knowledge of facts relevant to the correction of a recorded original instrument of conveyance may

1 prepare or execute a correction instrument to make a nonmaterial
2 change that results from a clerical error, including:

3 (1) a correction of an inaccurate or incorrect element
4 in a legal description, such as a distance, angle, direction,
5 bearing or chord, a reference to a plat or other plat information, a
6 lot or block number, a unit, building designation, or section
7 number, an appurtenant easement, a township name or number, a
8 municipality, county, or state name, a range number or meridian, a
9 certified survey map number, or a subdivision or condominium name;
10 or

11 (2) an addition, correction, or clarification of:

12 (A) a party's name, including the spelling of a
13 name, a first or middle name or initial, a suffix, an alternate name
14 by which a party is known, the identity of the trustee of a trust
15 named as party, or a description of an entity as a corporation,
16 company, or other type of organization;

17 (B) a party's marital status;

18 (C) the date on which the conveyance was
19 executed;

20 (D) the recording data for an instrument
21 referenced in the correction instrument; or

22 (E) a fact relating to the acknowledgment or
23 authentication.

24 SECTION 3. The changes in law made by this Act apply to an
25 instrument executed on, before, or after the effective date of this
26 Act.

27 SECTION 4. This Act takes effect September 1, 2023.