| **House Bill 207**  Senate Amendments  Section-by-Section Analysis | | |
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| HOUSE VERSION | SENATE VERSION (CS) | CONFERENCE |
| 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 SHAM OR 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 sham or pretended sale, including 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 that:  (1) the conveyance is a sham or pretended sale, including a pretended sale under Section 50(c), Article XVI, Texas Constitution; or  (2) the individual had not abandoned homestead rights, if any, in the parcel by executing the deed.  (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 sham or pretended sale, including a pretended sale under Section 50(c), Article XVI, Texas Constitution;  (14) a statement that the individual acknowledges that the individual will be estopped from claiming the individual had not abandoned homestead rights, if any, in the parcel by executing the deed;  (15) a statement that the individual understands that if the parcel is valued for ad valorem tax purposes as qualified open-space land, the entity must reapply in its own name by the applicable filing deadline; and  (16) 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).  (f) The entity or a lender for value may conclusively rely on an affidavit described by Subsection (d). | 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 SHAM OR 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.  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(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).  (f) The entity or a lender for value may conclusively rely on an affidavit described by Subsection (d).  (g) Notwithstanding any other provision of this section, a transaction that does not meet the requirements of this section is not invalid if the homestead has been abandoned or disclaimed as provided by other provisions of law. |  |
| SECTION 2. This Act takes effect September 1, 2023. | SECTION 2. Same as House version. |  |