| **House Bill 207**Senate AmendmentsSection-by-Section Analysis |
| --- |
| 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.(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).(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. |  |