

BILL ANALYSIS

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S.B. 16
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Deed fraud and title theft, sometimes called real property theft or property fraud, are growing crimes across Texas and across the United States. Among the most prominent instances of real property theft occurred with Graceland, the former home of entertainer Elvis Presley, in 2024.

Because bad actors seeking to commit deed fraud and title theft are so sophisticated, the conveyance documents that can be produced to commit these acts are often quite well-prepared and can fool even the most well-trained clerks in a county clerk's office. In such cases where fake conveyance documents make it through the filing process and a property owner later determines the conveyance documents were fraudulent, even if they return to the county clerk's office, it can be very difficult to determine who filed faked conveyance documents if those documents used the names of the actual property owners.

Additionally, while deed fraud and title theft can be prosecuted under existing statutes, these statutes are not designed to prosecute deed fraud or title theft because of the complex nature of the crimes and the complex nature of the restitution for the same.

S.B. 16 seeks to remedy fraudulent filings and create new criminal offenses for Real Property Theft and Real Property Fraud.

S.B. 16 modifies Section 191.010(b) of the Local Government Code and Section 12.001(b) of the Property Code to require that all persons filing property conveyance documents present a photo identification, and that the county clerk copy the information from, or record the information from, the identification presented.

Additionally, S.B. 16:

- Modifies Section 51.901 of the Government Code (Fraudulent Document or Instrument) to make it mandatory that a county clerk provide to the district attorney the new information required under Section 12.001(b)(2) of the Property Code in instances where a person presents themselves to the county clerk and advises that documents filed with the clerk after January 1, 2026, conveying property were fraudulent.
- Adds entire contents of S.B. 2611 89R (S.B. 36 89S1) to S.B. 16 as follows:
 - Creates the offenses of Real Estate Theft and Real Estate Fraud, and stipulates 10-year statutes of limitation for each.
 - Creates Section 31.23 of the Penal Code, "REAL PROPERTY THEFT."
 - Defines nonpossessory interest, owner, and transfer.
 - A person commits an offense if the person:
 - Brings about or attempts to bring about a transfer or purported transfer of real property or title to real property or nonpossessory interest in real property to any transferee or intended transferee:
 - Without the effective consent of the owner
 - With the intent to deprive the owner of the real property or nonpossessory interest in the same
 - Sells or otherwise transfers or encumbers or attempts to sell or otherwise transfer or encumber real property or title to real property or a nonpossessory interest in the same to or

- with respect to a person in exchange for a benefit from any person:
 - Without the effective consent of the owner of the benefit
 - With the intent to deprive the owner of the benefit.
- Stipulates that REAL PROPERTY THEFT offenses are:
 - A felony of the second degree if the value is less than \$300,000;
 - A felony of the first degree if the value is \$300,000 or more;
 - A felony of the third degree if the benefit received is less than \$30,000;
 - A felony of the second degree if the value of the benefit is \$30,000 or more but less than \$150,000; and
 - A felony of the first degree if the value of the benefit is \$150,000 or more.
 - An offense is increased to the next higher category of offense if the owner of the property was over 65, disabled, a non-profit, or the property had a homestead exemption under Subchapter B, Chapter 11 of the Tax Code.
- Creates offense of REAL PROPERTY FRAUD.
 - A person commits an offense if the person:
 - Intentionally or knowingly makes a materially false or misleading written statement to obtain real property; or
 - Causes another person, without that person's effective consent, to sign or execute any document affecting real property or any person's interest in real property; or
 - Causes a public servant, without the public servant's effective consent, to file or record any purported judgment or other document purporting to memorialize evidence:
 - Title or claim against real property or against any person's interest in real property; or
 - A lien or claim against real property or against any person's interest in real property.
- Stipulates that an offense under this section is punishable as follows:
 - A felony of the second degree if the market value of the real property or the value of the interest in the real property is less than \$300,000; or
 - A felony of the first degree if the value or interest in real property is in excess of \$300,000.
 - An offense under this section is increased to the next higher category of offense if it is shown on trial at the time of the offense that the owner of the real property was over 65, disabled, or the property was owned by a non-profit organization.
- Sets forth guidelines for DETERMINING VALUE FOR RESTITUTION
 - For purposes of determining restitution, the market value of real property is the market value of that property for the tax year in which the offense was committed, as indicated on the appraisal roll for the appraisal district in which the property is located.
- Requires that specific information must be included in the verdict and judgment:
 - If the offense involves more than one piece of property, the verdict form shall clearly identify each parcel by street address or legal description.
 - Requires that the jury foreperson indicate on verdict form whether the jury unanimously found that the parcel of real property is included in the conduct constituting the offense and that the judgment reflect the jury's verdict for each piece of real property that the jury unanimously finds be included in the conduct constituting the offense.
 - For cases not involving a jury, a judge rendering the verdict must adhere to the same requirements on the forms as the jury.
 - Stipulates that in instances of plea, if indictment does not clearly identify each parcel, this must be done in the judgment.

- Stipulates requirements for judgments relating to new offenses:
 - Must include street address or legal description of the property
 - For each document that relates to the real property that is the subject of the offense and is recorded in the real property records for that county, the identifying reference number assigned that document by the county clerk.
 - Requires that a certified copy of the criminal judgment also be filed with the county clerk in the county where the real property subject to the offense is located. This must include:
 - A statement explaining the filing
 - If the judgment does not comply with Article 5C.001(b) of the Code of Criminal Procedure, a certified copy of the indictment. [family violence preventive]
 - A judgment for these offenses is not invalid solely because it does not comply with Article 5C.001(b) or 5C.002 of the Code of Criminal Procedure. [5C.002 relates to definitions related to family violence]
- Outlines procedures for RESTITUTION
 - To the owner or nonpossessory interest in the real property subject to the offense, an amount equal to the value of the real property or nonpossessory interest.
 - For a defendant who sells or otherwise transfers or encumbers, or attempts to encumber, real property or title to real property with respect to a person in exchange for a benefit from any person, to the rightful owner an amount equal to the value of the benefit.
 - To a title company or insurer that paid a claim based on the conduct constituting the offense, an amount equal to the value of the payment made by the title company or insurer.
 - To the owner of the real property or nonpossessory interest or the owner of the benefit, an amount equal to, as applicable:
 - The value of losses incurred as a result of the conduct constituting the offense including the loss of persona property located on or in the real property subject to the offense.
 - The cost of repairing damage caused by or resulting from the conduct constituting the offense.
 - Reasonable attorneys fees and court costs related to an action brought to quiet title or dispute the conveyance or possession of the real property subject to the offense.
- Stipulates RESTITUTION MAY NOT BE ORDERED IF:
 - The defendant is listed in the county real property records as the owner of the real property or nonpossessory interest in real property that is subject to the offense.
 - Defendant executes a quitclaim deed or other instrument conveying the title or interest to the owner of the property or interest.
 - Defendant files for recording in the county real property records a copy of the quitclaim deed or other instrument; and
 - Defendant files a certified copy of the recorded quitclaim deed with the court.
- A court shall reduce the restitution in an amount equal to the value of a payment made by a title company or insurer for a claim based on the conduct constituting the offense to the person to whom the court orders the defendant to pay restitution.
- Effective September 1, 2025: all portions except training and identification requirement.
- Effective January 1, 2026: identification requirements and training requirements.

As proposed, S.B. 16 amends current law relating to real property theft and real property fraud, establishes recording requirements for certain documents concerning real property, creates the criminal offenses of real property theft and real property fraud, and establishes a statute of limitations, restitution, and certain procedures with respect to those offenses.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Reenacts Article 12.01, Code of Criminal Procedure, as amended by H.B. 1778, S.B. 127, and S.B. 2798, Acts of the 89th Legislature, Regular Session, 2025, and effective September 1, 2025, and amends it, as follows:

Art. 12.01. FELONIES. Authorizes felony indictments, except as provided in Articles 12.015 (Racketeering and Unlawful Debt Collection) and 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity), to be presented within these limits, and not afterward:

(1) makes no changes to this subdivision;

(2) ten years from the date of the commission of certain offenses, including real property theft under Section 31.23, Penal Code, or real property fraud under Section 32.60, Penal Code;

(3) seven years from the date of the commission of certain offenses, including an offense under Chapter 32 (Fraud), Penal Code, except as provided by Subdivision (2)(C) (relating to authorizing a felony indictment of forgery or the uttering, using, or passing of forged instruments to be presented within ten years from the date of the commission of the offense) or (J) (relating to authorizing a felony indictment of real property fraud under Section 32.60, Penal Code, to be presented within ten years from the date of the commission of the offense); or

(4)-(11) makes no changes to these subdivisions.

Makes nonsubstantive changes to this article.

SECTION 2. Amends Title 1, Code of Criminal Procedure, by adding Chapter 5C, as follows:

CHAPTER 5C. PROCEDURES FOR REAL PROPERTY THEFT AND FRAUD

Art. 5C.001. INFORMATION TO BE INCLUDED IN JUDGMENT OR ORDER. Requires that, for an offense under Section 31.23 or 32.60, Penal Code, the judgment of conviction or order of deferred adjudication include the street address or legal description of the real property that the court finds to be included in the conduct constituting the offense and the identifying reference number assigned by the county clerk to each document that relates to real property that the court finds to be included in the conduct constituting the offense and that is recorded in the real property records of the county.

Art. 5C.002. JUDGMENT OR ORDER TO BE FILED WITH COUNTY CLERK. Requires the prosecutor or court clerk, not later than the 10th day after the date the court enters a judgment of conviction or order of deferred adjudication for an offense under Section 31.23 or 32.60, Penal Code, as determined by local court rule, to file with the county clerk a certified copy of the judgment or order for recording in the real property records of the county where the real property that is the subject of the offense is located, a statement explaining the filing, and if the judgment or order does not comply with Article 5C.001, a certified copy of the indictment.

Art. 5C.003. EFFECT OF NONCOMPLIANCE. Provides that a judgment of conviction or order of deferred adjudication for an offense under Section 31.23 or 32.60, Penal Code, is not invalid solely because the judgment or order fails to comply with Article 5C.001 or 5C.002.

SECTION 3. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.0376, as follows:

Art. 42.0376. RESTITUTION FOR REAL PROPERTY THEFT. (a) Requires the court, except as provided by Subsection (b) and subject to Subsection (c), to order a defendant convicted of or placed on deferred adjudication community supervision for an offense under Section 31.23, Penal Code, to pay restitution, as applicable, to certain entities.

(b) Prohibits the court from ordering a defendant convicted of or placed on deferred adjudication community supervision for an offense under Section 31.23(b)(1), Penal Code, to pay restitution under Subsection (a)(1) (relating to requiring payment of restitution for an offense under Section 31.23(b)(2), to the owner of the real property that is subject to the offense in an amount equal to the value of the real property) if, before a judgment of conviction or order of deferred adjudication is entered in the case, the defendant is listed in the county real property records as the owner of the real property or nonpossessory interest in real property that is the subject of the offense, executes a quitclaim deed or other instrument conveying the title or interest to the owner of the property or interest, files for recording in the county real property records the quitclaim deed or other instrument, and provides to the court a certified copy of the recorded quitclaim deed or other instrument.

(c) Requires the court to reduce the amount of restitution that a defendant is ordered to pay under Subsection (a)(1) by an amount equal to the value of a payment made by a title company or insurer for a claim based on the conduct constituting the offense to the person to whom the court orders the defendant to pay restitution.

SECTION 4. Amends Section 51.901, Government Code, by adding Subsection (g), as follows:

(g) Requires a county clerk, if an individual advises the county clerk that a document or instrument that purports to convey an interest in real property and that was filed for recording with the county clerk after January 1, 2026, is fraudulent, to provide to law enforcement with jurisdiction in the area where the real property is located notice of the allegation and the photo identification information provided to the county clerk under Section 191.010(b), Local Government Code, by the person who presented the document or instrument to the county clerk for filing.

SECTION 5. Amends the heading to Section 191.010, Local Government Code, to read as follows:

Sec. 191.010. AUTHORITY TO REQUIRE PHOTO IDENTIFICATION TO FILE CERTAIN DOCUMENTS.

SECTION 6. Amends Section 191.010(b), Local Government Code, as follows:

(b) Requires a county clerk, rather than authorizes a county clerk in a county that allows for electronic filing of documents in the real property records of the county, to require a person presenting a document, rather than presenting a document in person, for filing in the real property records of the county to present a photo identification to the clerk. Requires, rather than authorizes, the clerk to copy the photo identification or record information from the photo identification.

SECTION 7. Amends Section 31.01(4), Penal Code, to redefine "appropriate."

SECTION 8. Amends Chapter 31, Penal Code, by adding Section 31.23, as follows:

Sec. 31.23. REAL PROPERTY THEFT. (a) Defines "disabled individual," "elderly individual," "nonpossessory interest," "owner," and "transfer."

(b) Provides that a person commits an offense if the person:

(1) brings about or attempts to bring about a transfer or purported transfer of real property or title to real property or a nonpossessory interest in real property, to any transferee or intended transferee without the effective consent of the owner of the real property or the nonpossessory interest in real property and with the intent to deprive the owner of the real property or the nonpossessory interest in the real property; or

(2) sells or otherwise transfers or encumbers, or attempts to sell or otherwise transfer or encumber, real property or title to real property or a nonpossessory interest in real property to or with respect to a person in exchange for a benefit from any person without the effective consent of the owner of the benefit and with the intent to deprive the owner of the benefit.

(c) Provides that, except as provided by Subsection (e), an offense under Subsection (b)(1) is a felony of the second degree if it is shown on the trial of the offense that the market value of the real property is less than \$300,000 or a felony of the first degree if it is shown on the trial of the offense that the market value of the real property is \$300,000 or more.

(d) Provides that, except as provided by Subsection (e), an offense under Subsection (b)(2) is a felony of the third degree if it is shown on the trial of the offense that the value of the benefit received is less than \$30,000, a felony of the second degree if it is shown on the trial of the offense that the value of the benefit received is \$30,000 or more but less than \$150,000, or a felony of the first degree if it is shown on the trial of the offense that the value of the benefit received is \$150,000 or more.

(e) Provides that an offense described for purposes of punishment by Subsections (c) and (d) is increased to the next higher category of offense if it is shown on the trial of the offense that at the time of the offense the owner of the real property or nonpossessory interest in real property or the owner of the benefit was an elderly individual, a disabled individual, or a nonprofit organization, or the real property was subject to a property tax exemption under Subchapter B (Exemptions), Chapter 11 (Taxable Property and Exemptions), Tax Code, as an individual's residence homestead as defined by Section 11.13(j) (relating to defining "residence homestead"), Tax Code.

(f) Provides that, for purposes of Subsection (c), the market value of real property is the market value of that property for the tax year in which the offense was committed, as indicated on the appraisal roll for the appraisal district in which the property is located.

(g) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under another law, to be prosecuted under this section, the other law, or both.

SECTION 9. Amends Subchapter D, Chapter 32, Penal Code, by adding Section 32.60, as follows:

Sec. 32.60. REAL PROPERTY FRAUD. (a) Defines "deception," "disabled individual," "elderly individual," "document," and "effective consent."

(b) Provides that a person commits an offense if the person intentionally or knowingly makes a materially false or misleading written statement to obtain real property or with the intent to defraud or harm any person causes another person, without that person's effective consent, to sign or execute any document affecting real property or any person's interest in real property or causes a public servant,

without the public servant's effective consent, to file or record any purported judgment or other document purporting to memorialize or evidence certain instruments.

(c) Provides that, except as provided by Subsection (d), an offense under this section is a felony of the second degree if it is shown on the trial of the offense that the market value of the real property or the value of the interest in the real property is less than \$300,000 or a felony of the first degree if it is shown on the trial of the offense that the market value of the real property or the value of the interest in the real property is \$300,000 or more.

(d) Provides that an offense described for purposes of punishment by Subsection (b) is increased to the next higher category of offense if it is shown on the trial of the offense that at the time of the offense the owner of the real property was an elderly individual, a disabled individual, or a nonprofit organization or the real property was subject to a property tax exemption under Subchapter B, Chapter 11, Tax Code, as an individual's residence homestead as defined by Section 11.13(j), Tax Code.

(e) Provides that, for purposes of Subsection (c), the market value of real property is the market value of that property for the tax year in which the offense was committed, as indicated on the appraisal roll for the appraisal district in which the property is located.

SECTION 10. Amends Section 12.001(b), Property Code, as follows:

(b) Prohibits an instrument conveying real property from being recorded unless certain conditions are met, including that any individual presenting the instrument in person for recording presents a photo identification to the county clerk as required by Section 191.010 (Authority to Require Photo Identification to File Certain Documents in Certain Counties), Local Government Code. Makes nonsubstantive changes.

SECTION 11. Makes application of this Act prospective.

SECTION 12. Provides that the changes in law made by this Act in amending Article 12.01, Code of Criminal Procedure, do not apply to an offense if the prosecution of that offense becomes barred by limitation before the effective date of this Act. Provides that the prosecution of that offense remains barred as if this Act had not taken effect.

SECTION 13. (a) Effective date, except as provided by Subsection (b) of this section: the 91st day after the last day of the legislative session.

(b) Effective date, Section 51.901(g), Government Code, as added by this Act: January 1, 2026.