

BILL ANALYSIS

C.S.S.B. 647

By: West

Trade, Workforce & Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that property owners in Texas have seen increasingly complex scammers who file convincing fraudulent documents and manipulate instruments of conveyance to steal property and that these fraudulent documents can cloud titles, lead to property loss, and cause significant harm to innocent Texans, who are often unaware until the damage is done. C.S.S.B. 647 seeks to address this issue by making certain revisions to state law regarding the process for clerks to address potentially fraudulent documents or instruments.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 647 amends the Government Code to revise statutory provisions specifying the action that a clerk of the supreme court, clerk of the court of criminal appeals, clerk of a court of appeals, district clerk, county clerk, district and county clerk, or municipal clerk must take if they have a reasonable basis to believe in good faith that a document or instrument previously filed or recorded or offered or submitted for filing or for filing and recording is fraudulent. Under current law, if the document or instrument purports to create a lien or assert a claim on real or personal property or an interest in real or personal property, the clerk must provide written notice of the filing, recording, or submission for filing or for filing and recording to the stated or last known address of the person named in the document or instrument as the obligor or debtor and to any person named as owning any interest in the applicable real or personal property. The bill revises that requirement as follows:

- changes the description of the type of document or instrument to which the requirement applies to a document or instrument that purports to create a lien against or assert a claim to or an interest in real or personal property;
- includes among the persons to whom such a notice is provided a person named in the document or instrument as the grantor or grantee or a person named as acquiring any interest in the applicable real or personal property; and
- requires the written notice to also be provided to the last known owner of the property if that owner's address is different from the address of the grantor, obligor, or debtor named in the document or instrument.

The bill also revises the provision specifying the circumstances under which a document or instrument that purports to create a lien against or assert a claim against real or personal property or an interest in real or personal property is presumed to be fraudulent by doing the following:

- changing the description of the type of document or instrument to which that provision applies in the same manner specified for the notice requirement; and
- including a reference to a grantor in the provision establishing that fraudulence is presumed if the document or instrument is not created by implied or express consent or agreement of certain applicable persons.

C.S.S.B. 647 establishes that a document or instrument is presumed to not be fraudulent if the prospective filer meets one of the following conditions:

- provides to the county clerk, at the time of filing or on the clerk's request, additional documentation such as a contract for the sale of or another document creating a lien against or asserting a claim to the property subject to the document or instrument that contains the signature of the property owner; or
- is a person engaged solely in the business of providing closing, settlement, or other transactional services in connection with the transfer of real property, including an attorney, title agent, title company, or escrow company.

C.S.S.B. 647 revises the requirement for a county clerk to take certain actions if the clerk believes in good faith that a document filed with the county clerk to create a lien is fraudulent by changing the circumstance triggering that requirement to a county clerk believing in good faith that a document or instrument filed, recorded, or submitted for filing or recording with the county clerk to create a lien against or assert a claim to or an interest in real or personal property is fraudulent. The bill makes conforming changes in the requirements for the clerk to request the assistance of the county or district attorney for purposes of determining fraudulence and to request that the prospective filer provide certain additional supporting documentation. With respect to the specification that such documentation may include a contract or other document containing the signature of the debtor, the bill includes references to an owner, grantor, or obligor in addition to a debtor. The bill requires the clerk to refuse to file or record the document or instrument submitted for filing or recording if either of the following circumstances apply:

- the district or county attorney whose assistance the clerk requested determines there is probable cause to believe the document or instrument is fraudulent; or
- the prospective filer does not provide the clerk the additional supporting documentation.

The bill grants a county clerk who, in good faith, files or records, or refuses to file or record, a document or instrument creating a lien against or asserting a claim to or an interest in real or personal property immunity from liability and suit arising out of the filing, recording, or refusal to file or record the document or instrument. The bill prohibits a county commissioners court from disciplining, penalizing, or otherwise taking an adverse employment action against the clerk for that filing, recording, or refusal.

C.S.S.B. 647 establishes that additional documentation provided to an applicable clerk under provisions relating to fraudulent documents or instruments is confidential and exempt from disclosure under state public information law and may be submitted to a county clerk by an individual or entity without civil process.

C.S.S.B. 647 amends the Civil Practice and Remedies Code to make conforming changes.

C.S.S.B. 647 applies only to a document or instrument conveying or purporting to convey an interest in real or personal property filed, recorded, or offered for filing or recording on or after the bill's effective date. A document or instrument conveying or purporting to convey an interest in real or personal property filed, recorded, or offered for filing or recording before the bill's effective date is governed by the law in effect on the day the document or instrument was filed, recorded, or offered for filing or recording, and the former law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 647 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions absent from the engrossed that do the following:

- establish that a document or instrument is presumed to not be fraudulent if the prospective filer is a person engaged solely in the business of providing closing, settlement, or other transactional services in connection with the transfer of real property, including an attorney, title agent, title company, or escrow company;
- grant a county clerk who, in good faith, files or records, or refuses to file or record, a document or instrument creating a lien against or asserting a claim to or an interest in real or personal property immunity from liability and suit arising out of the filing, recording, or refusal to file or record the document or instrument; and
- prohibit a county commissioners court from disciplining, penalizing, or otherwise taking an adverse employment action against the county clerk for that filing, recording, or refusal.