

BILL ANALYSIS

Senate Research Center
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S.B. 647
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Title theft is a serious and increasingly common form of identity fraud that specifically targets property ownership. This type of theft, along with title theft of personal property, occurs when an individual or group successfully forges or steals your property deed, allowing them to transfer the ownership of your property into their name without your knowledge or consent.

Once they gain control of your deed, these criminals may attempt to exploit your property in various ways. For instance, they might take out loans against your home equity, effectively borrowing money that you are responsible for repaying. In other cases, they could try to rent out your home to unsuspecting tenants or even sell the property altogether, pocketing the profits for themselves. The risk of title theft can go unnoticed until it is too late.

Currently, Section 51.901 of the Government Code, provides a mechanism for clerks of various courts in Texas to address potentially fraudulent documents or instruments that are filed or submitted for filing. Specifically, if a clerk has a reasonable basis to believe in good faith that a document is fraudulent, the clerk is required to provide written notice to the affected parties. This includes notifying the person against whom a purported judgment or directive is rendered or the person named as the obligor or debtor in a document that purports to create a lien or assert a claim on real or personal property.

S.B. 647 makes two important changes to strengthen the existing law. First, it enhances the notice requirements by requiring notice to be sent to the last known owner of the property if their address is different from the address of the grantor, obligor, or debtor named in the document or instrument. Second, if the court clerk contacts the district or county attorney for assistance, it empowers the district or county attorney with the right to refuse to file or record the document or instrument submitted for filing or recording if that attorney finds that there is probable cause to believe that the document or instrument is fraudulent or if the prospective filer fails to provide the clerk with the additional documentation requested. This will enhance the State's ability to act as gatekeepers against the increasing criminal tendency to outpace our legal system, providing clerks with the common-sense capacity to deter thieves.

As proposed, S.B. 647 amends current law relating to the filing or recording of documents or instruments conveying or purporting to convey an interest in real or personal property.

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. Amends Sections 51.901(a), (c), and (d), Government Code, as follows:

- (a) Requires the clerk, if a clerk of the Supreme Court of Texas, clerk of the Texas Court of Criminal Appeals, clerk of a court of appeals, district clerk, county clerk, district and county clerk, or municipal clerk has 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, to:

(1) makes no changes to this subdivision; or

(2) if the document or instrument purports to create a lien against or assert a claim to or an interest in real or personal property, provide written notice of the filing, recording, or submission for filing or for filing and recording to the stated or last known address of:

(A) the person named in the document or instrument as the grantor, obligor, or debtor, and to any person named as the grantee or as owning or acquiring any interest in the real or personal property described in the document or instrument; and

(B) as applicable, 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.

Makes a nonsubstantive change to this subsection.

(c) Provides that, for purposes of Section 51.901 (Fraudulent Document or Instrument), a document or instrument is presumed to be fraudulent if the document or instrument purports to create a lien against or assert a claim to, rather than against real or personal property, or an interest in real or personal property and is not created by implied or express consent or agreement of the grantor, obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property, if required under the laws of this state, or by implied or express consent or agreement of an agent, fiduciary, or other representative of that person.

(d) Requires the clerk, if a county clerk believes 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, to:

(1) makes no changes to this subdivision;

(2) request that the prospective filer provide to the county clerk additional documentation supporting the existence of the lien, claim, or interest, such as a contract or other document that contains the signature of the alleged owner, debtor, grantor, or obligor;

(3) makes a nonsubstantive change to this subdivision; and

(4) refuse to file or record the document or instrument submitted for filing or recording if:

(A) the district or county attorney whose assistance the clerk requested under Subdivision (1) (relating to requiring the clerk to seek prosecutorial review of potentially fraudulent property filings) determines there is probable cause to believe the document or instrument is fraudulent; or

(B) the prospective filer does not provide the clerk the additional documentation requested under Subdivision (2).

SECTION 2. Amends Section 12.003(b), Civil Practice and Remedies Code, as follows:

(b) Provides that notwithstanding, any other law, a person or a person licensed or regulated by Title 11, Insurance Code (the Texas Title Insurance Act), does not have a duty to disclose a fraudulent, as described by Section 51.901(c) (related to providing that certain documents or instruments are presumed fraudulent based on certain claims), Government Code, court record, document, or instrument purporting to create a lien

against or assert a claim to or an interest in real property in connection with a sale, conveyance, mortgage, or other transfer of the real property or interest in real property. Makes nonsubstantive changes.

SECTION 3. Amends Section 12.001(b), Property Code, as follows:

(b) Prohibits an instrument conveying real property from being recorded unless it is:

- (1) creates this subdivision from existing text and makes a nonsubstantive change; and
- (2) sworn to before and certified by an officer authorized to take acknowledgements or oaths.

Deletes existing text prohibiting an instrument conveying real property from being recorded unless it is acknowledged or sworn to before and certified by an officer authorized to take acknowledgements or oaths, as applicable.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2025.