

BILL ANALYSIS

C.S.S.B. 648
By: West
Trade, Workforce & Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that property owners in Texas continue to be impacted by complex scammers who file convincing fraudulent documents and manipulate the system to steal property, that these fraudulent documents can cause significant harm and are often not discovered until the damage is done, and that artificial intelligence has made these fraudulent documents easier to create, particularly regarding notary seals. C.S.S.B. 648 seeks to strengthen requirements for filing an instrument conveying real property by providing more tools to address deed fraud. The bill provides an alternative form of affidavit concerning identity of heirs to provide more information and additional requirements for filing an instrument conveying real property.

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. 648 amends the Property Code to require an instrument concerning real property before it may be recorded, in addition to the requirement for the instrument to be signed and acknowledged or sworn to by the grantor of the real property in the presence of two or more credible subscribing witnesses or acknowledged or sworn to before and certified by an officer authorized to take acknowledgements or oaths, as applicable, to be signed by the grantor if the instrument is filed for recording by an attorney, title agent, title company, or escrow company that provides closing, settlement, or other comparable transaction services in connection with the transfer of real property, a public utility, a governmental entity, or a person acting on behalf of the attorney, agent, company, utility, or entity.

C.S.S.B. 648 requires an instrument filed for recording by an individual other than such a person to be signed by the grantor, acknowledged or sworn to by the grantor in the presence of two or more credible subscribing witnesses acknowledged or sworn to by the grantor, and acknowledged or sworn to by the grantor and each subscribing witness before and certified by an officer authorized to take acknowledgements or oaths, as applicable. The bill also requires an affidavit of heirship concerning heirship to real property that is filed for recording by a person other than an attorney, title agent, title company, or escrow company that provides closing, settlement, or other comparable transaction services in connection with the transfer of real property, a public utility, a governmental entity, or a person acting on behalf of the attorney, agent, company, utility, or entity, before the affidavit of heirship may be recorded, to be:

- signed by the individual making the affidavit;
- acknowledged or sworn to by the individual making the affidavit in the presence of two credible subscribing witnesses;
- acknowledged or sworn to by the individual making the affidavit and each subscribing witness before and certified by an officer authorized to take acknowledgements or oaths, as applicable; and
- acknowledged or sworn to by each living heir to real property named in the affidavit that is not under a legal disability before and certified by an officer authorized to take acknowledgements or oaths, as applicable.

C.S.S.B. 648 amends the Estates Code to provide an alternative form to use to record an affidavit of facts concerning the identity of a decedent's heirs for purposes of the additional requirements relating to an instrument conveying real property under the bill's provisions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 648 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 a provision absent from the engrossed providing for an alternative form to use to record an affidavit of facts concerning the identity of a decedent's heirs for purposes of the additional requirements relating to an instrument conveying real property under the bill's provisions.

The substitute includes a public utility, governmental entity, and a person acting on behalf of the utility or entity among entities filing an instrument for recording that is required to be signed by the grantor and meet other conditions, whereas the engrossed did not.

The substitute removes a grantee, as in the engrossed, from the entities required to acknowledge or swear to an instrument if the instrument is filed for recording by a person other than an attorney, title agent, title company, or escrow company that provides closing, settlement, or other comparable transaction services in connection with the transfer of real property, a public utility, a governmental entity, or a person acting on behalf of the attorney, agent, company, utility, or entity.

Whereas the engrossed required an applicable affidavit of heirship concerning heirship to real property to be acknowledged or sworn to by the individual making the affidavit and each heir to real property named in the affidavit that is not under a legal disability in the presence of two credible subscribing witnesses with knowledge of the facts in the affidavit and acknowledged or sworn to by the individual making the affidavit, each heir to real property named in the affidavit that is not under a legal disability, and each subscribing witness with knowledge of the facts in the affidavit before and certified by an officer authorized to take acknowledgements or oaths, the substitute requires the affidavit to be acknowledged or sworn to by the individual making the affidavit in the presence of two credible subscribing witnesses, acknowledged or sworn to by the individual making the affidavit and each subscribing witness before and certified by an officer authorized to take acknowledgements or oaths, as applicable, and acknowledged or sworn to by each living heir to real property named in the affidavit that is not under a legal disability before and certified by an officer authorized to take acknowledgements or oaths.