

BILL ANALYSIS

Senate Research Center
89R5453 JBD-D

S.B. 1734
By: West
Jurisprudence
4/7/2025
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Vital documents related to real property, such as deeds and mortgages, are recorded in the county clerk's office in the county where the property is located. Filing these vital documents for recording provides public notice of ownership while also offering protection against fraud and title disputes.

However, when fraudulent documents are filed for recording, such protection no longer exists. In fact, when a fraudulent deed is recorded, it can be used to sell the property to unknowing buyers or to borrow against the property from unknowing lenders.

Often, the true owners do not discover that a fraudulent deed or lien has been filed until they go to sell or refinance their property.

S.B. 1734 protects Texas homeowners by creating a procedure for homeowners to challenge the validity of a recorded document that purports to convey title when they have reason to believe it is fraudulent.

To challenge the validity of a recorded document, a homeowner must complete a two-step process.

First, if a homeowner has reason to believe that a recorded document is fraudulent, the homeowner must file an affidavit asserting the document is fraudulent with the county. During this period, the purported grantor and grantee have the ability to file an affidavit asserting that the document is valid.

If the purported grantor or grantee does not respond, the homeowner may file a motion challenging the validity of the recorded document with the district clerk of the county.

Once a motion is filed with the district clerk, a district judge has the ability to determine the validity of the document.

S.B. 1734 ensures that Texas homeowners will have a clear and inexpensive route to justice when deed theft occurs.

As proposed, S.B. 1734 amends current law relating to status of certain documents or instruments purporting to convey title to or an interest in real 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 Section 51.901(c), Government Code, as follows:

(c) Provides that a document or instrument, for purposes of Section 51.901 (Fraudulent Document or Instrument), is presumed to be fraudulent if it meets certain criteria,

including if the document or instrument purports to convey title to or an interest in real property and a person has been convicted of an offense under Title 7 (Offenses Against Property) or Title 8 (Offenses Against Public Administration), Penal Code, for conduct with respect to the document or instrument or the document or instrument is the subject of an owner's affidavit and certificate of mailing filed and recorded in accordance with Section 5.0206, Property Code, and a controverting affidavit was not timely filed for recording under that section. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter J, Chapter 51, Government Code, by adding Section 51.9035, as follows:

Sec. 51.9035. ACTION ON FRAUDULENT CONVEYANCE. (a) Authorizes an owner of real property who has reason to believe that a document or instrument purporting to convey title to or an interest in the real property and recorded in the real property records is fraudulent, subject to Section 5.0206(c), Property Code, to complete and file with the district clerk of the county in which the document or instrument is recorded a motion, verified as required by Subsection (c), to which the movant has attached:

(1) a copy of the document or instrument; and

(2) documentary evidence of a person's conviction of an offense under Title 7 or Title 8, Penal Code, for conduct with respect to the document or instrument or the filing and recording of an uncontroverted owner's affidavit and certificate of mailing under Section 5.0206, Property Code.

(b) Requires that a motion under Subsection (a) contain, at a minimum, the information in a certain suggested form. Sets forth the required language of the form.

(c) Requires that a motion filed under Subsection (a) be verified by the affidavit in substantially a certain form. Sets forth the required language of the form.

(d) Authorizes a motion under this section to be ruled on by a district judge having jurisdiction over real property matters in the county where the document or instrument described in the motion is recorded. Authorizes the district court to rule on the motion based solely on a review of the attached document or instrument, the attached documentary evidence, and any relevant public records without hearing any testimonial evidence. Authorizes the court's review to be made ex parte without delay or notice of any kind. Requires an appellate court to expedite review of a court's finding under this section.

(e) Prohibits the district clerk from collecting a filing fee for filing a motion under this section.

(f) Requires the district judge, after reviewing the attached document or instrument, the attached evidence, and any relevant public records under this section, to enter an appropriate finding of fact and conclusion of law, which is required to be filed for recording and indexed in the same class of records in which the subject document or instrument was originally recorded. Requires that a copy of the finding of fact and conclusion of law be sent, by first class mail, to the movant and to the person who filed the document or instrument for recording at the last known address of each person within seven days after the date that the finding of fact and conclusion of law is issued by the judge.

(g) Prohibits the county clerk from collecting a fee for filing a district judge's finding of fact and conclusion of law under this section.

(h) Sets forth the language of a suggested form for a district court's finding of fact and conclusion of law under Subsection (f).

SECTION 3. Amends Subchapter A, Chapter 5, Property Code, by adding Sections 5.0206 and 5.0207, as follows:

Sec. 5.0206. OWNER'S AFFIDAVIT REGARDING PURPORTED CONVEYANCE OF TITLE OR INTEREST. (a) Authorizes an owner of real property to file for recording in the real property records of the county in which a document or instrument purporting to convey title to or an interest in the real property was recorded an affidavit that substantially complies with Subsection (e) and a certificate of mailing that substantially complies with Subsection (f).

(b) Requires a property owner who files an affidavit under Subsection (a) to send a copy of the filed affidavit and a letter notifying the grantor and grantee of the purported conveyance of the filing of the affidavit by registered or certified mail, return receipt requested, to the grantor and grantee's last known addresses.

(c) Authorizes the property owner that filed an affidavit, if an affidavit and certificate of mailing are filed and recorded under Subsection (a) and a controverting affidavit is not filed for recording in the time provided by Subsection (d), to bring a motion for a district court ruling under Section 51.9035, Government Code.

(d) Authorizes the grantor or grantee of the purported conveyance, not later than the 120th day after the date a certificate of mailing was filed under Subsection (a), to file for recording a controverting affidavit in the real property records of the county in which the real property is located asserting that the affidavit or certificate of mailing filed by the property owner under Subsection (a) is untrue or another reason exists as to why the conveyance is valid.

(e) Requires that an affidavit filed under Subsection (a) be in substantially a certain form. Sets forth the required language of the form.

(f) Requires that a certificate of mailing filed under Subsection (a) be in substantially a certain form. Sets forth the required language of the form.

Sec. 5.0207. EFFECT OF CERTAIN COURT FINDINGS ON PURPORTED CONVEYANCE OF TITLE OR INTEREST. Authorizes a bona fide purchaser or a mortgagee for value or a successor or assign of a bona fide purchaser or mortgagee for value to rely conclusively on a determination in a district court's finding of fact and conclusion of law recorded under Section 51.9035, Government Code, that a document or instrument does not convey title to or an interest in the real property described in the document or instrument.

SECTION 4. Effective date: September 1, 2025.