89R27403 SCR-D

By:  West, et al. S.B. No. 648

(Anchía, Lujan, Button, Longoria)

Substitute the following for S.B. No. 648:

By:  Button C.S.S.B. No. 648

A BILL TO BE ENTITLED

AN ACT

relating to recording requirements for certain instruments concerning real property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 203.002, Estates Code, is amended to read as follows:

Sec. 203.002.  FORM OF AFFIDAVIT CONCERNING IDENTITY OF HEIRS. An affidavit of facts concerning the identity of a decedent's heirs may be in substantially the following form:

AFFIDAVIT OF FACTS CONCERNING THE IDENTITY OF HEIRS

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_\_\_\_\_\_ ("Affiant") (insert name of affiant) who, being first duly sworn, upon his/her oath states:

1.  My name is \_\_\_\_\_\_\_\_\_\_ (insert name of affiant), and I live at \_\_\_\_\_\_\_\_\_\_ (insert address of affiant's residence). I am personally familiar with the family and marital history of \_\_\_\_\_\_\_\_\_\_ ("Decedent") (insert name of decedent), and I have personal knowledge of the facts stated in this affidavit.

2.  I knew decedent from \_\_\_\_\_\_\_\_\_\_ (insert date) until \_\_\_\_\_\_\_\_\_\_ (insert date). Decedent died on \_\_\_\_\_\_\_\_\_\_ (insert date of death). Decedent's place of death was \_\_\_\_\_\_\_\_\_\_ (insert place of death). At the time of decedent's death, decedent's residence was \_\_\_\_\_\_\_\_\_\_ (insert address of decedent's residence).

3.  Decedent's marital history was as follows: \_\_\_\_\_\_\_\_\_\_ (insert marital history and, if decedent's spouse is deceased, insert date and place of spouse's death).

4.  Decedent had the following children: \_\_\_\_\_\_\_\_\_\_ (insert name, birth date, name of other parent, and current address of child or date of death of child and descendants of deceased child, as applicable, for each child).

5.  Decedent did not have or adopt any other children and did not take any other children into decedent's home or raise any other children, except: \_\_\_\_\_\_\_\_\_\_ (insert name of child or names of children, or state "none").

6.  (Include if decedent was not survived by descendants.) Decedent's mother was: \_\_\_\_\_\_\_\_\_\_ (insert name, birth date, and current address or date of death of mother, as applicable).

7.  (Include if decedent was not survived by descendants.) Decedent's father was: \_\_\_\_\_\_\_\_\_\_ (insert name, birth date, and current address or date of death of father, as applicable).

8.  (Include if decedent was not survived by descendants or by both mother and father.) Decedent had the following siblings: \_\_\_\_\_\_\_\_\_\_ (insert name, birth date, and current address or date of death of each sibling and parents of each sibling and descendants of each deceased sibling, as applicable, or state "none").

9.  (Optional.) The following persons have knowledge regarding the decedent, the identity of decedent's children, if any, parents, or siblings, if any: \_\_\_\_\_\_\_\_\_\_ (insert names of persons with knowledge, or state "none").

10.  Decedent died without leaving a written will. (Modify statement if decedent left a written will.)

11.  There has been no administration of decedent's estate. (Modify statement if there has been administration of decedent's estate.)

12.  Decedent left no debts that are unpaid, except: \_\_\_\_\_\_\_\_\_\_ (insert list of debts, or state "none").

13.  There are no unpaid estate or inheritance taxes, except: \_\_\_\_\_\_\_\_\_\_ (insert list of unpaid taxes, or state "none").

14.  To the best of my knowledge, decedent owned an interest in the following real property: \_\_\_\_\_\_\_\_\_\_ (insert list of real property in which decedent owned an interest, or state "none").

15.  (Optional.) The following were the heirs of decedent: \_\_\_\_\_\_\_\_\_\_ (insert names of heirs).

16.  (Insert additional information as appropriate, such as size of the decedent's estate.)

[OPTION 1]

Signed this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, \_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(signature of affiant)

State of \_\_\_\_\_\_\_\_\_\_

County of \_\_\_\_\_\_\_\_\_\_

Sworn to and subscribed to before me on \_\_\_\_\_\_\_\_\_\_ (date) by \_\_\_\_\_\_\_\_\_\_ (insert name of affiant).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(signature of notarial officer)

(Seal, if any, of notary) \_\_\_\_\_\_\_\_\_\_

(printed name)

My commission expires: \_\_\_\_\_\_\_\_\_\_

[OPTION 2 (for purposes of Section 12.001(b-1), Property Code)]

Signed this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, \_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(signature of affiant)

State of \_\_\_\_\_\_\_\_\_\_

County of \_\_\_\_\_\_\_\_\_\_

Sworn to and subscribed to before me on \_\_\_\_\_\_\_\_\_\_ (date) by \_\_\_\_\_\_\_\_\_\_ (insert name of affiant).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(signature of notarial officer)

(Seal, if any, of notary) \_\_\_\_\_\_\_\_\_\_

(printed name)

My commission expires: \_\_\_\_\_\_\_\_\_\_

STATEMENT OF FIRST WITNESS

I am not entitled to any portion of the Decedent's estate and I have no claim against any portion of the Decedent's estate.

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATEMENT OF SECOND WITNESS

I am not entitled to any portion of the Decedent's estate and I have no claim against any portion of the Decedent's estate.

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State of \_\_\_\_\_\_\_\_\_\_

County of \_\_\_\_\_\_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_\_\_\_\_\_ (date) by \_\_\_\_\_\_\_\_\_\_ (insert name of witnesses).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(signature of notarial officer)

(Seal, if any, of notary) \_\_\_\_\_\_\_\_\_\_

(printed name)

My commission expires: \_\_\_\_\_\_\_\_\_\_

STATEMENT OF HEIR

I am an heir to real property of \_\_\_\_\_\_\_\_\_\_ ("Decedent") (insert name of decedent).

Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

State of \_\_\_\_\_\_\_\_\_\_

County of \_\_\_\_\_\_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_\_\_\_\_\_ (date) by \_\_\_\_\_\_\_\_\_\_ (insert name of heir).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(signature of notarial officer)

(Seal, if any, of notary) \_\_\_\_\_\_\_\_\_\_

(printed name)

My commission expires: \_\_\_\_\_\_\_\_\_\_

SECTION 2.  Section 12.001, Property Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b)  An instrument conveying real property may not be recorded unless:

(1)  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, the instrument [~~it~~] is signed by the grantor and:

(A)  [~~and~~] acknowledged or sworn to by the grantor in the presence of two or more credible subscribing witnesses; or

(B)  acknowledged or sworn to by the grantor before and certified by an officer authorized to take acknowledgements or oaths, as applicable; and

(2)  if the instrument is filed for recording by an individual other than a person described by Subdivision (1), the instrument is:

(A)  signed by the grantor;

(B)  acknowledged or sworn to by the grantor in the presence of two or more credible subscribing witnesses; and

(C)  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.

(b-1)  An affidavit of heirship concerning heirship to real property that is filed for recording by a person described by Subsection (b)(2) may not be recorded unless it is:

(1)  signed by the individual making the affidavit;

(2)  acknowledged or sworn to by the individual making the affidavit in the presence of two credible subscribing witnesses;

(3)  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

(4)  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.

SECTION 3.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.