

By: West

S.B. No. 1734

A BILL TO BE ENTITLED

AN ACT

relating to status of certain documents or instruments purporting to convey title to or an interest in real property.

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

SECTION 1. Section 51.901(c), Government Code, is amended to read as follows:

(c) For purposes of this section, a document or instrument is presumed to be fraudulent if:

(1) the document is a purported judgment or other document purporting to memorialize or evidence an act, an order, a directive, or process of:

(A) a purported court or a purported judicial entity not expressly created or established under the constitution or the laws of this state or of the United States; or

(B) a purported judicial officer of a purported court or purported judicial entity described by Paragraph (A);

(2) the document or instrument purports to create a lien or assert a claim against real or personal property or an interest in real or personal property and:

(A) is not a document or instrument provided for by the constitution or laws of this state or of the United States;

(B) is not created by implied or express consent or agreement of the obligor, debtor, or the owner of the real or personal property or an interest in the real or personal property,

1 if required under the laws of this state, or by implied or express  
2 consent or agreement of an agent, fiduciary, or other  
3 representative of that person; or

4 (C) is not an equitable, constructive, or other  
5 lien imposed by a court with jurisdiction created or established  
6 under the constitution or laws of this state or of the United  
7 States; ~~or~~

8 (3) the document or instrument purports to create a  
9 lien or assert a claim against real or personal property or an  
10 interest in real or personal property and the document or  
11 instrument is filed by an inmate or on behalf of an inmate; or

12 (4) the document or instrument purports to convey  
13 title to or an interest in real property and:

14 (A) a person has been convicted of an offense  
15 under Title 7 or Title 8, Penal Code, for conduct with respect to  
16 the document or instrument; or

17 (B) the document or instrument is the subject of  
18 an owner's affidavit and certificate of mailing filed and recorded  
19 in accordance with Section 5.0206, Property Code, and a  
20 controverting affidavit was not timely filed for recording under  
21 that section.

22 SECTION 2. Subchapter J, Chapter 51, Government Code, is  
23 amended by adding Section 51.9035 to read as follows:

24 Sec. 51.9035. ACTION ON FRAUDULENT CONVEYANCE. (a)  
25 Subject to Section 5.0206(c), Property Code, an owner of real  
26 property who has reason to believe that a document or instrument  
27 purporting to convey title to or an interest in the real property

1 and recorded in the real property records is fraudulent may  
2 complete and file with the district clerk of the county in which the  
3 document or instrument is recorded a motion, verified as required  
4 by Subsection (c), to which the movant has attached:

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

6 (2) documentary evidence of:

7 (A) a person's conviction of an offense under  
8 Title 7 or Title 8, Penal Code, for conduct with respect to the  
9 document or instrument; or

10 (B) the filing and recording of an uncontroverted  
11 owner's affidavit and certificate of mailing under Section 5.0206,  
12 Property Code.

13 (b) A motion under Subsection (a) must contain, at a  
14 minimum, the information in the following suggested form:

15 MISC. DOCKET NO. \_\_\_\_\_

16 In Re: A Purported

In the \_\_\_\_\_ Judicial District

17 Conveyance of Title

In and For \_\_\_\_\_

18 to or an Interest in

County, Texas

19 (Description of Real

20 Property)

21 Motion for Judicial Review of Document or Instrument Purporting to

22 Convey Title to or an Interest in Real Property

23 Now Comes (name) and files this motion requesting a judicial  
24 determination of the status of a document or instrument purporting  
25 to convey title to or an interest in real property filed in the  
26 office of the County Clerk of (county name) County, Texas, and in  
27 support of the motion would show the court as follows:

1 I.

2 (Name), movant herein, is the purported person who holds  
3 title to the real property or the interest in the real property  
4 described in the attached document or instrument.

5 II.

6 On (date), in the exercise of the county clerk's official  
7 duties as County Clerk of (county name) County, Texas, the county  
8 clerk recorded the document or instrument attached to this motion  
9 and containing (number) pages. The attached document or instrument  
10 purports to have conveyed title to or an interest in the real  
11 property to (name of purported grantee).

12 III.

13 Movant alleges that the attached document or instrument is  
14 fraudulent, as described by Section 51.901(c)(4), Government Code,  
15 and that the document or instrument should therefore not be  
16 considered to convey title to or an interest in the real property  
17 described in the document or instrument.

18 IV.

19 Movant attests that the assertions herein are true and  
20 correct.

21 V.

22 Movant does not request the court to make a finding as to any  
23 underlying claim of the parties involved and acknowledges that this  
24 motion does not seek to invalidate a legitimate conveyance. Movant  
25 further acknowledges that movant may be subject to sanctions, as  
26 provided by Chapter 10, Civil Practice and Remedies Code, if this  
27 motion is determined to be frivolous.

PRAYER

Movant requests the court to review the attached document or instrument, the attached documentary evidence, and any relevant public records and enter an order determining whether the document or instrument should be considered to convey title to or an interest in the real property described in the document or instrument, together with such other orders as the court deems appropriate.

Respectfully submitted,

(Signature and typed name and address)

(c) A motion filed under Subsection (a) must be verified by an affidavit in substantially the following form:

AFFIDAVIT

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who, being by me duly sworn, deposed as follows:

"My name is \_\_\_\_\_. I am over 21 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify.

I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

SUBSCRIBED and SWORN TO before me, this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
NOTARY PUBLIC, State of Texas

\_\_\_\_\_  
Notary's printed name:

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

\_\_\_\_\_  
(d) A motion under this section may 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. The district court may 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. The court's review may be made ex parte without delay or notice of any kind. An appellate court shall expedite review of a court's finding under this section.

(e) The district clerk may not collect a filing fee for filing a motion under this section.

(f) After reviewing the attached document or instrument, the attached evidence, and any relevant public records under this section, the district judge shall enter an appropriate finding of fact and conclusion of law, which must be filed for recording and indexed in the same class of records in which the subject document or instrument was originally recorded. A copy of the finding of fact and conclusion of law shall 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

1 is issued by the judge.

2 (g) The county clerk may not collect a fee for filing a  
3 district judge's finding of fact and conclusion of law under this  
4 section.

5 (h) A suggested form for a district court's finding of fact  
6 and conclusion of law under Subsection (f) is as follows:

7 MISC. DOCKET NO. \_\_\_\_\_

8 In Re: A Purported

In the \_\_\_\_\_ Judicial District

9 Conveyance of Title

In and For \_\_\_\_\_

10 to or an Interest in

County, Texas

11 (Description of Real

12 Property)

13 Judicial Finding of Fact and Conclusion of Law Regarding a Document

14 or Instrument Purporting to Convey Title to or an Interest in Real

15 Property

16 On the (number) day of (month), (year), in the above entitled  
17 and numbered cause, this court reviewed a motion, verified by  
18 affidavit, of (name) and the document or instrument attached to the  
19 motion, the other documentary evidence attached to the motion, and  
20 any relevant public records. No testimony was taken from any party,  
21 nor was there any notice of the court's review, the court having  
22 made the determination that a decision could be made solely on  
23 review of the document or instrument, the other documentary  
24 evidence, and public records under the authority vested in the  
25 court under Subchapter J, Chapter 51, Government Code.

26 The court finds as follows (only an item checked and  
27 initialed is a valid court ruling):

1           The document or instrument attached to the motion herein  
2 DOES convey title to or an interest in real property and:

3           (1) IS NOT the subject of a criminal conviction for an  
4 offense under Title 7 or Title 8, Penal Code, for conduct with  
5 respect to the document or instrument; and

6           (2) IS NOT the subject of an uncontroverted owner's  
7 affidavit under Section 5.0206, Property Code.

8           The document or instrument attached to the motion herein  
9 DOES NOT convey title to or an interest in real property and:

10          (1) IS the subject of a criminal conviction for an  
11 offense under Title 7 or Title 8, Penal Code, with respect to the  
12 document or instrument; or

13          (2) IS the subject of an uncontroverted owner's  
14 affidavit under Section 5.0206, Property Code.

15          This court makes no finding as to any underlying claims of the  
16 parties involved, and expressly limits its finding of fact and  
17 conclusion of law to the review of a ministerial act. The county  
18 clerk shall record this finding of fact and conclusion of law in the  
19 same class of records as the subject document or instrument was  
20 originally filed, and the court directs the county clerk to index it  
21 using the same names that were used in indexing the subject document  
22 or instrument.

23 SIGNED ON THIS THE            DAY OF            .

24 \_\_\_\_\_  
25 DISTRICT JUDGE

26           JUDICIAL DISTRICT

27           COUNTY, TEXAS



SECTION 3. Subchapter A, Chapter 5, Property Code, is amended by adding Sections 5.0206 and 5.0207 to read as follows:

Sec. 5.0206. OWNER'S AFFIDAVIT REGARDING PURPORTED CONVEYANCE OF TITLE OR INTEREST. (a) An owner of real property may 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:

(1) an affidavit that substantially complies with Subsection (e); and

(2) a certificate of mailing that substantially complies with Subsection (f).

(b) A property owner who files an affidavit under Subsection (a) shall 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) 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), the property owner that filed the affidavit may bring a motion for a district court ruling under Section 51.9035, Government Code.

(d) Not later than the 120th day after the date a certificate of mailing was filed under Subsection (a), the grantor or grantee of the purported conveyance may file for recording a controverting affidavit in the real property records of the county in which the real property is located asserting that:

(1) the affidavit or certificate of mailing filed by

1 the property owner under Subsection (a) is untrue; or

2 (2) another reason exists as to why the conveyance is  
3 valid.

4 (e) An affidavit filed under Subsection (a) must be in  
5 substantially the following form:

6 OWNER'S AFFIDAVIT REGARDING PURPORTED CONVEYANCE

7 Before me, the undersigned authority, on this day personally  
8 appeared ("Affiant(s)") (insert name of one or more affiants) who,  
9 being first duly sworn, upon oath states:

10 (1) My/our name is/are (insert name of Affiant(s)).  
11 I/we own the following described real property ("Property"):

12 (describe the real property)

13 (2) This affidavit is made for the purpose of  
14 establishing a presumption under Section 51.901(c)(4), Government  
15 Code, that the document or instrument purporting to convey title to  
16 or an interest in the Property recorded in \_\_\_\_\_ (refer to  
17 recording information of the conveyance) ("Purported Conveyance")  
18 is fraudulent and obtaining a district court's finding of fact and  
19 conclusion of law under Section 51.9035, Government Code, that the  
20 document or instrument does not convey title to or an interest in  
21 the Property.

22 (3) Affiant(s) have not conveyed title to or an  
23 interest in the Property to any grantee other than (list any  
24 interests granted).

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

(Signature of Affiant(s))

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

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

SWORN TO AND SUBSCRIBED before me on the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

My commission expires:

Notary Public, State of Texas

Notary's printed name:

(f) A certificate of mailing filed under Subsection (a) must  
be in substantially the following form:

CERTIFICATE OF MAILING OF OWNER'S AFFIDAVIT REGARDING PURPORTED  
CONVEYANCE

Before me, the undersigned authority, on this day personally  
appeared ("Affiant(s)") (insert name(s) of Affiant(s)) who, being  
first duly sworn, upon oath state(s):

(1) My name is/Our names are (insert name(s) of Affiant(s)).

(2) On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, Affiant(s) caused an Owner's Affidavit Regarding Purported Conveyance to be recorded in (refer to affidavit recording information) ("Affidavit").

(3) On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, Affiant(s)

sent a letter and a copy of the Affidavit, notifying the grantor and grantee of the purported conveyance of the Affiant's ownership claim and the filing of the Affidavit, by registered or certified mail, return receipt requested, to the grantor and grantee's last known address.

(4) Attached to this certificate are:

(A) a true and correct copy of the letter  
described by Subdivision (3) of this certificate; and

(B) proof of mailing of the letter described by  
Subdivision (3) of this certificate.

Signed on the day of \_\_\_\_\_, 20\_\_\_\_.

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(Signature of Affiant(s))

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

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

SWORN TO AND SUBSCRIBED before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires:

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Notary Public, State of Texas

Notary's printed name:

Sec. 5.0207. EFFECT OF CERTAIN COURT FINDINGS ON PURPORTED  
CONVEYANCE OF TITLE OR INTEREST. A bona fide purchaser or a  
mortgagee for value or a successor or assign of a bona fide

1 purchaser or mortgagee for value may rely conclusively on a  
2 determination in a district court's finding of fact and conclusion  
3 of law recorded under Section 51.9035, Government Code, that a  
4 document or instrument does not convey title to or an interest in  
5 the real property described in the document or instrument.

6       SECTION 4. This Act takes effect September 1, 2025.