

SUBJECT: Shortening the statute of limitations for real property title defect suits

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 7 ayes — B. Cook, Strama, P. King, Madden, Martinez Fischer, Miller,  
Raymond

0 nays

2 absent — Talton, Woolley

SENATE VOTE: On final passage, April 19 — 30-0

WITNESSES: (*On House companion bill, HB 1549 by Darby:*)  
For — James L. Gosdin, Stewart Title & Guaranty Co. (*Registered but did not testify*: Randy M. Lee, Stewart Title & Guaranty Co.)

Against — None

BACKGROUND: Under Civil Practice and Remedies Code, sec. 16.033, the statute of limitations to file suit on a title defect for real property is four years.

DIGEST: SB 1781 would amend Civil Practice and Remedies Code, sec. 16.033 to reduce the statute of limitations to file suit on a title defect for real property, or an interest in real property, from four years to two years after the day the instrument was filed for record with the county clerk of the county containing the property.

The bill also would add to the list of actionable title defects failure of the record or instrument to show *or include* an acknowledgement or jurat that complied with applicable law. It also would add that an instrument affecting real property containing a defect, omission, or informality in the certificate of acknowledgement or failing to contain a certificate of acknowledgement that had been filed for record for longer than two years in the property's county recorder office would be considered to have been lawfully recorded and to be notice of the existence of the instrument on and after the date the instrument was filed.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007, and would apply only to an instrument filed for record on or after that date.

NOTES:

The identical companion bill, HB 1549 by Darby, was reported favorably, without amendment by the Civil Practices Committee on April 25.