

SUBJECT: Providing for the removal of discriminatory provisions from deed records

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Davis, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith

0 nays

1 absent — Dutton

SENATE VOTE: On final passage, March 31 — 31-0

WITNESSES: For — (*Registered, but did not testify:* Cary Roberts, County and District Clerks' Association of Texas; Tammy Narvaez, Harris County Commissioners Court; Bill Kelly, Mayor's Office, City of Houston; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Scott Norman, Texas Association of Builders; Joshua Houston, Texas Impact; Allen Place, Texas Land Title Association; Jennifer Allmon, The Texas Catholic Conference of Bishops; and seven individuals)

Against — None

BACKGROUND: Property Code sec. 5.026(a) specifies that if a restriction that affects real property, or a provision in a deed that conveys real property or an interest in real property, whether express or incorporated by reference, prohibits the use by or the sale, lease, or transfer to a person because of race, color, religion, or national origin, the provision or restriction is void.

DIGEST: CSSB 30 would allow a person who owned real property or an interest in real property the chain of title for which included a recorded conveyance instrument or document containing a discriminatory provision to request the removal of the provision from the instrument or document.

To remove such a provision, a person would have to complete and file a motion that contained, at a minimum, the information in a suggested form

detailed in the bill. The motion would have to be filed with the clerk of a district court in the county in whose real property records the instrument or document was recorded or of another court having jurisdiction over real property matters in the county. The motion would have to be verified by affidavit by a completed form for ordinary certificate of acknowledgement of the same type described by the Civil Practice and Remedies Code.

A motion under the bill could be ruled on by a court having jurisdiction over real property matters in the county where the subject document was filed. The court's finding could be made solely on a review of the conveyance instrument or document attached to the motion and without hearing any testimonial evidence. The court's review could be made ex parte without delay or notice of any kind.

If the court did not rule on the motion by the 15th day after the motion was filed, the motion would be deemed granted. An appellate court would have to expedite review of a court's finding.

After reviewing the conveyance instrument or document attached to a motion filed under the bill, the court would have to enter an appropriate finding of fact and conclusion of law, which would have to be:

- transferred by the court clerk to the county clerk for recording and indexing by the 10th day after the finding of fact and conclusion of law was entered by the court or deemed granted; and
- filed and indexed by the county clerk in the same class of records in which the subject conveyance instrument or document was filed.

The index entry for a finding of fact and conclusion of law entered under the bill would have to contain the names of the grantors and grantees as stated in the subject conveyance instrument or document.

A court clerk or a county clerk could not collect a fee for filing a motion or a court's finding of fact and conclusion of law.

The bill includes a suggested form for a court to enter an appropriate

finding of fact and conclusion of law.

The bill would take effect September 1, 2021.

**SUPPORTERS
SAY:**

CSSB 30 would streamline the process of removing discriminatory provisions in property deed records by allowing property owners and any person with interest in the property to file a motion with the county district court clerk to modify the deed language.

Despite being void under state law, discriminatory provisions remain in some property deed records. To remove these provisions, owners must go through an arduous, time-consuming, and expensive process for each deed. The bill would remedy this problem by providing a uniform and straightforward process for the removal of discriminatory provisions from deed records without requiring the hiring of attorneys, payment of filing fees, or the conducting of hearings. The process outlined in the bill mirrors existing state law regarding the removal of fraudulent liens.

**CRITICS
SAY:**

No concerns identified.