

S.B. No. 30

AN ACT relating to the **removal of certain discriminatory provisions from a recorded conveyance instrument.**

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

SECTION 1. This Act shall be known as the Senator Royce West Act.

SECTION 2. Subchapter B, Chapter 5, Property Code, is amended by adding Section 5.0261 to read as follows:

Sec. 5.0261. REMOVAL OF DISCRIMINATORY PROVISION FROM RECORDED CONVEYANCE INSTRUMENT. **(a) In this section, “discriminatory provision” means a restriction or provision that is void under Section 5.026(a).**

(b) A person who owns real property or an interest in real property the chain of title for which includes a recorded conveyance instrument containing a discriminatory provision, or another person with the permission of the owner, may request the removal of the discriminatory provision from the instrument by completing and filing, with the clerk of a district court in the county in whose real property records the instrument is recorded or of another court having jurisdiction over real property matters in the county, a motion, verified by affidavit by a completed form for ordinary certificate of acknowledgment of the same type described by Section 121.007, Civil Practice and Remedies Code, that contains, at a minimum, the information in the following suggested form:

MISC. DOCKET NO. _____

In Re: Conveyance Instrument with Discriminatory Provision

In the _____ Judicial District In and For _____ County, Texas

Motion for Judicial Review of Conveyance Instrument Alleged to Contain a Discriminatory Provision as Defined by Section 5.0261(a), Texas Property Code Now Comes (name) and files this motion requesting a judicial determination of the status of a conveyance instrument that contains a discriminatory provision as defined by Section 5.0261(a), Texas Property Code, filed in the office of the Clerk of (county name) County, Texas, and in support of the motion would show the court as follows:

I.

(Name), movant herein, is the person who owns the real property or the interest in real property described in the conveyance instrument or has been given permission by that person to file this motion.

II.

On (date), in the exercise of the county clerk’s official duties as County Clerk of (county name) County, Texas, the county clerk received and filed and recorded the conveyance instrument attached hereto and containing (number) pages. The instrument is recorded at _____ in the real property records of _____ County. The conveyance instrument contains a discriminatory provision as defined by Section 5.0261(a), Texas Property Code.

III.

Movant alleges that the conveyance instrument attached hereto contains a discriminatory provision as defined by Section 5.0261(a), Texas Property Code, and that the discriminatory provision should be removed.

IV.

Movant attests that assertions herein are true and correct.

V.

PRAYER

Movant requests the court to review the attached conveyance instrument and enter an order removing the discriminatory provision as defined by Section 5.0261(a), Texas Property Code, together with such other orders as the court deems appropriate.

Respectfully submitted,

(Signature and typed name and address)

(c) The completed form for ordinary certificate of acknowledgment, of the same type described by Section 121.007, Civil Practice and Remedies Code, must be as follows:

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 court having jurisdiction over real property matters in the county where the subject conveyance instrument was filed. The court's finding may be made solely on a review of the conveyance instrument attached to the motion and without hearing any testimonial evidence. The court's review may be made ex parte without delay or notice of any kind. If the court does not rule on the motion on or before the 15th day after the date the motion is filed, the motion is deemed granted. An appellate court shall expedite review of a court's finding under this section.

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

(f) After reviewing the conveyance instrument attached to a motion filed under this section, the court shall enter an appropriate finding of fact and conclusion of law.

(g) The court's finding of fact and conclusion of law must be:

(1) transferred by the court clerk to the county clerk for recording and indexing not later than the 10th day after the date the finding of fact and conclusion of law is entered by the court or deemed granted under Subsection (d); and

(2) filed and indexed by the county clerk in the same class of records in which the subject conveyance instrument is filed.

(h) The county clerk may not collect a fee for filing a court's finding of fact and conclusion of law under this section.

(i) A suggested form of order appropriate to comply with Subsection (f) is as follows:

MISC. DOCKET NO. _____

In Re: Conveyance Instrument with Discriminatory Provision

In the _____ Judicial District In and For _____ County, Texas

Judicial Finding of Fact and Conclusion of Law Regarding Conveyance Instrument Alleged to Contain a Discriminatory Provision as Defined by Section 5.0261(a), Texas Property Code

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion, verified by affidavit, of (name) and the conveyance instrument attached thereto. No testimony was taken from any party, nor was there any notice of the court's review, the court having made the determination that a decision could be made solely on review of the conveyance instrument under the authority vested in the court under Section 5.0261, Texas Property Code.

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

_____ The conveyance instrument recorded at _____ in the real property records of _____ County CONTAINS a discriminatory provision as defined by Section 5.0261(a), Texas Property Code. The discriminatory provision as defined by Section 5.0261(a), Texas Property Code, is void and removed from the conveyance instrument identified herein.

_____ The conveyance instrument recorded at _____ in the real property records of _____ County and attached to the motion herein DOES NOT CONTAIN a discriminatory provision as defined by Section 5.0261(a), Texas Property Code.

This court expressly limits its finding of fact and conclusion of law to the review of a ministerial act. The county clerk shall file this finding of fact and conclusion of law in the same class of records in which the subject conveyance instrument is filed, and the court directs the county clerk to index it using the same names used to index the subject conveyance instrument.

SIGNED ON THIS THE _____ DAY OF _____.

JUDGE

_____ (Court)

_____ COUNTY, TEXAS

SECTION 3. Sections 193.003(a) and (b), Local Government Code, are amended to read as follows:

(a) The county clerk shall maintain an alphabetical index to all recorded deeds, powers of attorney, mortgages, correction instruments, findings of fact and conclusions of law entered under Section 5.0261, Property Code, and other instruments relating to real property. The index must state the specific location in the records at which the instruments are recorded.

(b) The index must be a cross-index that contains the names of the grantors and grantees in alphabetical order. If a deed is made by a sheriff, the index entry must contain the name of the sheriff and the defendant in execution. If a deed is made by an executor, administrator, or guardian, the index entry must contain the name of that person and the name of the person's testator, intestate, or ward. If a deed is made by an attorney, the index entry must contain the name of the attorney and the attorney's constituents. If a deed is made by a commissioner or trustee, the index entry must contain the name of the commissioner or trustee and the name of the person whose estate is conveyed. The index entry for a correction instrument must contain the names of the grantors and grantees as stated in the correction instrument. The index entry for a finding of fact and conclusion of law entered under Section 5.0261, Property Code, must contain the names of the grantors and grantees as stated in the subject conveyance instrument. The index entry for a paper document described by Section 12.0011(b)(3), Property Code, must contain the names of the grantors and grantees.

SECTION 4. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 30 passed the Senate on March 31, 2021, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 28, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 30 passed the House, with amendments, on May 25, 2021, by the following vote: Yeas 146, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor