

- SUBJECT:** Creating deadline to record certain durable powers of attorney
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 7 ayes — Smithee, Farrar, Laubenberg, Raymond, Schofield, Sheets, S. Thompson
- 0 nays
- 2 absent — Clardy, Hernandez
- WITNESSES:** For — Alan Morgan
- Against — None
- On — Michael Savas, Texas Land Title Association
- BACKGROUND:** Estates Code, sec. 751.151 requires durable powers of attorney for real property transactions to be recorded in the office of the county clerk of the county in which the property is located. This applies to a durable power of attorney for a real property transaction that requires an instrument to be recorded, such as a mortgage or an oil, gas, or other mineral lease.
- A power of attorney is sometimes required in a real property transaction to authorize someone other than the owner of the property to execute an instrument. If the durable power of attorney is not recorded along with the instrument, the chain of title of the real property is broken and can cause problems in the future when it is unclear from the recorded documents who has power to convey the real property.
- DIGEST:** CSHB 3316 would make certain transactions voidable by any person if a durable power of attorney was required for the transaction and was not recorded on or before the 10th day after the instrument related to the transaction was filed for recording. This would apply to real property transactions that required an instrument to be recorded, such as a mortgage or an oil, gas, or other mineral lease.

The bill would take effect September 1, 2015, and would apply only to a real property transaction entered into on or after that date.