

BILL ANALYSIS

Senate Research Center
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S.B. 887
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Property owners rely on clear and correct recorded documents. S.B. 1496, 82nd Legislature, Regular Session, 2011, established a uniform system for correcting recorded documents without initiating a court proceeding. This bill furthers the efficiencies provided for by that system by clarifying two issues that have come to light since the passage of S.B. 1496.

First, this bill allows a person with personal knowledge of facts relevant to the correction to prepare or execute a correction instrument to make a nonmaterial change to a legal description resulting from a clerical error or an inadvertent error (accidental omission). Second, this bill allows a correction instrument to replace the original instrument, subject to the property interests of a creditor or a subsequent purchaser.

As proposed, S.B. 887 amends current law relating to certain correction instruments in the conveyance of real property.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 5.028, Property Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Authorizes a person who has personal knowledge of facts relevant to the correction of a recorded original instrument of conveyance to prepare or execute a correction instrument to make a nonmaterial change that results from certain clerical errors, including a correction of an inaccurate or incorrect element in a legal description, such as a distance, angle, direction, bearing or chord, a reference to a plat or other plat information, a lot or block number, a unit, building designation, or section number, an appurtenant easement, a township name or number, a municipality, county, or state name, a range number or meridian, a certified survey map number, or a subdivision or condominium name. Makes nonsubstantive changes.

(a-1) Authorizes a person who has personal knowledge of facts relevant to the correction of a recorded original instrument of conveyance to prepare or execute a correction instrument to make a nonmaterial change that results from an inadvertent error, including the addition, correction, or clarification of a legal description prepared in connection with the preparation of the original instrument but inadvertently omitted from the original instrument or an omitted call in a metes-and-bounds legal description in the original instrument that completes the description of the property.

SECTION 2. Amends Section 5.030, Property Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Provides that a correction instrument replaces and is a substitute for the original instrument. Authorizes a bona fide purchaser of property that is subject to a correction

instrument, except as provided by Subsection (c), to rely on the instrument against any person making an adverse or inconsistent claim.

(c) Provides that a correction instrument is subject to the property interest of a creditor or a subsequent purchaser for valuable consideration without notice acquired on or after the date the original instrument was acknowledged, sworn to, or proved and filed for record as required by law and before the correction instrument has been acknowledged, sworn to, or proved and filed for record as required by law.

SECTION 3. Effective date: September 1, 2013.