

## **BILL ANALYSIS**

Senate Research Center

S.B. 885  
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State Affairs  
5/24/2021  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In Texas, quitclaims negatively impact the chain of title in perpetuity. Texas law does not provide good faith purchaser status for grantees (those receiving the property) for value with no actual or constructive notice of any outside interests or claims to the property if a quitclaim deed appears in the chain of title. According to case law, the existence of a quitclaim in the property records serves as notice of potential additional claims on the property not only for the initial grantee, but also for subsequent transferees.

Texas courts are increasingly construing instruments as quitclaims based on interpretation of certain phrases despite the document appearing to be a deed conveying title. This judicial characterization can blur the lines between quitclaims and conveyances resulting in the purpose of the recording system to foster certainty about status of ownership of real property being diluted.

S.B. 885 seeks to create certainty by providing a statute of limitations for quitclaims in the chain of title that establishes good faith purchaser status for subsequent transferees that take the property without additional or actual notice of unrecorded matters.

(Original Author's/ Sponsor's Statement of Intent)

S.B. 885 amends current law relating to quitclaim deeds.

### **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 16.025(b), Civil Practice and Remedies Code, to provide that Section 16.025 (Adverse Possession: Five-Year Limitations Period) does not apply to a claim based on certain deeds, including a quitclaim deed. Makes a nonsubstantive change.

SECTION 2. Amends Chapter 13, Property Code, by adding Section 13.006, as follows:

Sec. 13.006. EFFECT OF RECORDING QUITCLAIM DEED. Provides that, after the fourth anniversary of the date a quitclaim deed for real property is recorded in the deed records of the county in which the real property is located, the quitclaim deed:

- (1) does not affect the question of the good faith of a subsequent purchaser or creditor; and
- (2) is not notice to a subsequent purchaser or creditor of any unrecorded conveyance of, transfer of, or encumbrance on the real property.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.