

89TH TEXAS LEGISLATIVE SESSION

DEED FRAUD SELF HELP

HB 4531 (REP. BHOJANI) / SB 1734 (SEN. WEST)



TLTA seeks introduction and passage of a bill that creates an ex parte process whereby a property owner can seek a judicial finding that a deed in their chain of title is fraudulent and void.

Problem

Real-estate fraud, specifically deed fraud, is on the rise. According to the [FBI's 2023 Internet Crime Complaint Center \(IC3\) report](#)¹, there were 9,521 real estate-based fraud complaints in 2023. Deed fraud occurs when a scammer forges a deed and claims title to another person's home or real property without the property owner's knowledge or consent.

Although forged deeds are often recognized, addressed, and corrected in a transaction involving a title company, having a cloud on one's property can be frustrating and problematic. But if the fraudster successfully "sells" the property to a buyer outside of the title insurance system, both the rightful property owner and unsuspecting buyer can be harmed.

1. https://www.ic3.gov/annualreport/reports/2023_ic3report.pdf

Solution

Create a statute modeled on the "Fraudulent Liens" statute Section 51.901 of the Government code with the following changes:

- A. Provide that the ex parte process for fraudulent liens can be used for deeds, if the following conditions are met:
 1. A set period of time passes whereby the affidavit can be controverted before the deed becomes void, AND EITHER
 2. The filing is accompanied with a copy of a criminal judgment that references the property, OR
 3. The filing is only effective with an attached certificate of mailing as proof of the notice to the current deed claimant.

Background

The existing fraudulent lien statute allows a property owner to file a motion with a district judge asserting that the lien is fraudulent. The judge can then sign a statutorily prescribed ruling declaring the lien void.

TLTA has engaged in internal discussions and consultation with outside stakeholders. The conclusion of these conversations is that an ex parte approach providing property owners with this "self help" tool for deeds must incorporate additional due process protections. To that end, the proposed bill would require the motion to include evidence of notice to the beneficiaries of the deed in question and establish a specific period of time that the affidavit can be contested before the deed becomes void.

TLTA – Protecting Texans' Property Rights

Texas Land Title Association

www.tlta.com