

BILL ANALYSIS

S.B. 885
By: Hughes
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

State law does not provide good faith purchaser status for grantees if a quitclaim deed appears in the chain of title, even though a grantee may obtain the property for value with no actual or constructive notice of any outside interests or claims to the property. According to certain case law, the existence of a quitclaim in the property records serves as notice of potential third-party claims on the property, not only to the initial grantee, but also to subsequent transferees. Courts in Texas are increasingly interpreting instruments that appear to be deeds conveying title as quitclaims, based on the presence of certain phrases. This judicial characterization can blur the lines between quitclaims and conveyances, undermining the purpose of the recording system to foster certainty about the ownership status of real property. S.B. 885 seeks to strengthen such certainty by providing a statute of limitations for quitclaims that establishes good faith purchaser status for subsequent transferees.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 885 amends the Property Code to establish that, after the fourth anniversary of the date a quitclaim deed for real property is recorded in the deed records of the applicable county, the deed does not affect the question of the good faith of a subsequent purchaser or creditor and does not constitute notice to a subsequent purchaser or creditor of any unrecorded conveyance of, transfer of, or encumbrance on the property.

S.B. 885 amends the Civil Practice and Remedies Code to exclude a claim based on a quitclaim deed from the five-year limitations period for bringing suit to recover real property held in peaceable and adverse possession by another who cultivates, uses, or enjoys the property, pays applicable taxes on the property, and claims the property under a duly registered deed.

EFFECTIVE DATE

September 1, 2021.