

## **BILL ANALYSIS**

Senate Research Center  
86R19913 BRG-D

H.B. 1176  
By: Darby (Menéndez)  
State Affairs  
5/6/2019  
Engrossed

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

It has been suggested that the current two-year statute of repose for a technical defect in the notarial acknowledgment of an instrument conveying real property may be too long, considering the high volume of property transactions that depend on conveyance documents. H.B. 1176 seeks to alleviate this problem by amending the law relating to technical defects in instruments affecting real property.

H.B. 1176 amends current law relating to technical defects in instruments affecting 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 Sections 16.033(a) and (c), Civil Practice and Remedies Code, as follows:

(a) Requires a person with a right of action for the recovery of real property or an interest in real property conveyed by an instrument with one of the following defects to bring suit not later than two years after the day the instrument was filed for record with the county clerk of the county where the real property is located:

(1)–(5) makes no changes to these subdivisions;

(6) deletes existing text relating to acknowledgment of the instrument in an individual, rather than a representative or official, capacity;

(7) redesignates Subdivision (6) as this subdivision;

(8) deletes existing text relating to failure of the record or instrument to show an acknowledgment or jurat that complies with applicable law; or

(9) redesignates this subdivision as Subdivision (7).

(c) Provides that an instrument affecting real property containing a defect in, omission of, or informality in the acknowledgment that has been filed for record for longer than six months in the office of the county recorder of the county in which the property is located is considered to have been lawfully recorded and to be notice of the existence of the instrument on and after the date the instrument is filed, rather than, for the purposes of this section (Technical Defects in Instrument), an instrument affecting real property containing a ministerial defect, omission, or informality in the certificate of acknowledgment that has been filed for record for longer than two years in the office of the county recorder of the county in which the property is located is considered to have been lawfully recorded and to be notice of the existence of the instrument on and after the date the instrument is filed.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2019.