

BILL ANALYSIS

C.S.H.B. 3316
By: Miller, Doug
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested observers point out that the practice of filing of a durable power of attorney when a real estate transaction relies on that durable power of attorney to authorize one of the parties to execute the document has been generally successful. However, the observers point out that some chains of title have been broken by the untimely filing of the power of attorney. C.S.H.B. 3316 seeks to address this issue.

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

C.S.H.B. 3316 amends the Estates Code to make a real property transaction requiring the execution and delivery of instruments to be recorded voidable by any person if the required durable power of attorney for such a real property transaction is not filed for recording as required on or before the 10th day after the date the instrument to be recorded in connection with the transaction is filed for recording.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3316 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Subchapter D, Subtitle P, Chapter 751, Section 751.151, Estates Code, is amended to read as follows: Sec. 751.151. RECORDING FOR REAL PROPERTY TRANSACTIONS REQUIRING EXECUTION AND	SECTION 1. Section 751.151, Estates Code, is amended to read as follows: Sec. 751.151. RECORDING FOR REAL PROPERTY TRANSACTIONS REQUIRING EXECUTION AND

84R 26989

15.120.676

Substitute Document Number: 84R 15716

DELIVERY OF INSTRUMENTS. (a) A durable power of attorney for a real property transaction requiring the execution and delivery of an instrument that is to be recorded, including a release, assignment, satisfaction, mortgage, security agreement, deed of trust, encumbrance, deed of conveyance, oil, gas, or other mineral lease, memorandum of a lease, lien, or other claim or right to real property, must be recorded in the office of the county clerk of the county in which the property is located.

(b) A real property transaction is voidable by any person if the durable power of attorney for a real property transaction is not filed of record with the office of the county clerk on or within 10 days after the date of the filing of the real property transaction.

No equivalent provision.

SECTION 2. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

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(b) If a durable power of attorney for a real property transaction described by Subsection (a) is not filed for recording as required by that subsection on or before the 10th day after the date the instrument to be recorded in connection with the transaction is filed for recording, the transaction is voidable by any person.

SECTION 2. This Act applies only to a real property transaction entered into on or after the effective date of this Act. A real property transaction entered into before the effective date of this Act is governed by the law in effect when the transaction was entered into, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.