

1-1 By: Murr, Lambert (Senate Sponsor - Middleton) H.B. No. 207
1-2 (In the Senate - Received from the House April 24, 2023;
1-3 April 24, 2023, read first time and referred to Committee on
1-4 Business & Commerce; May 12, 2023, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 11,
1-6 Nays 0; May 12, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>Schwertner</u>	X		
1-10	<u>King</u>	X		
1-11	<u>Birdwell</u>	X		
1-12	<u>Campbell</u>	X		
1-13	<u>Creighton</u>	X		
1-14	<u>Johnson</u>	X		
1-15	<u>Kolkhorst</u>	X		
1-16	<u>Menéndez</u>	X		
1-17	<u>Middleton</u>	X		
1-18	<u>Nichols</u>	X		
1-19	<u>Zaffirini</u>	X		

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 207 By: Middleton

1-21 A BILL TO BE ENTITLED
1-22 AN ACT

1-23 relating to the exclusion of certain conveyances from
1-24 classification as sham or pretended sales.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Subchapter A, Chapter 41, Property Code, is
1-27 amended by adding Section 41.0022 to read as follows:

1-28 Sec. 41.0022. CERTAIN CONVEYANCES NOT SHAM OR PRETENDED
1-29 SALES. (a) In this section:

1-30 (1) "Entity" means a domestic or foreign:

1-31 (A) corporation, professional corporation, or
1-32 professional association;

1-33 (B) limited liability company or professional
1-34 limited liability company; or

1-35 (C) limited partnership.

1-36 (2) "Parcel" means one or more parcels.

1-37 (b) The conveyance of a parcel not meeting the definition of
1-38 an urban homestead under Section 41.002(a) or (c) by an individual
1-39 to an entity in which the individual or individual's spouse has a
1-40 direct or indirect ownership interest is not a sham or pretended
1-41 sale, including a pretended sale under Section 50(c), Article XVI,
1-42 Texas Constitution, if:

1-43 (1) the deed conveying the parcel is recorded at least
1-44 30 days before the entity grants a mortgage, trust deed, or other
1-45 lien on the parcel;

1-46 (2) the individual does not reside on the parcel at the
1-47 time of the conveyance;

1-48 (3) the parcel is not contiguous to the parcel on which
1-49 the individual resides;

1-50 (4) the deed conveying the parcel does not contain a
1-51 condition of defeasance; and

1-52 (5) the individual recorded contemporaneously with
1-53 the deed an affidavit substantially in the form prescribed by
1-54 Subsection (d).

1-55 (c) An individual executing a deed under Subsection (b) is
1-56 estopped from claiming that:

1-57 (1) the conveyance is a sham or pretended sale,
1-58 including a pretended sale under Section 50(c), Article XVI, Texas
1-59 Constitution; or

1-60 (2) the individual had not abandoned homestead rights,

2-1 if any, in the parcel by executing the deed.
 2-2 (d) At the time of recording a deed under Subsection (b), an
 2-3 individual grantor of the deed shall record an affidavit containing
 2-4 the following:
 2-5 (1) a title caption stating "Affidavit Regarding
 2-6 Conveyance To An Entity";
 2-7 (2) the date of the affidavit;
 2-8 (3) a description of the deed containing:
 2-9 (A) the title of the deed;
 2-10 (B) the date of the deed;
 2-11 (C) the name and address of the individual
 2-12 grantor; and
 2-13 (D) the name and address of the entity grantee;
 2-14 (4) a description of the parcel being conveyed to the
 2-15 entity;
 2-16 (5) a description of the parcel upon which the
 2-17 individual currently resides;
 2-18 (6) a statement that the parcel being conveyed is not
 2-19 contiguous to the parcel upon which the individual currently
 2-20 resides;
 2-21 (7) a statement that the parcel upon which the
 2-22 individual currently resides is not:
 2-23 (A) located within the limits of a municipality
 2-24 or its extraterritorial jurisdiction or a platted subdivision; or
 2-25 (B) served by police protection, paid or
 2-26 volunteer fire protection, and at least three of the following
 2-27 services provided by a municipality or under contract to a
 2-28 municipality:
 2-29 (i) electric;
 2-30 (ii) natural gas;
 2-31 (iii) sewer;
 2-32 (iv) storm sewer; or
 2-33 (v) water;
 2-34 (8) a statement that:
 2-35 (A) the individual is unmarried; or
 2-36 (B) the individual is married, and including the
 2-37 name of the individual's spouse;
 2-38 (9) a statement that the individual or individual's
 2-39 spouse owns a direct or indirect interest in the entity;
 2-40 (10) a statement that the individual has executed the
 2-41 deed conveying the parcel to the entity;
 2-42 (11) a statement that the individual intends to vest
 2-43 title in the entity;
 2-44 (12) a statement that there are no written or oral
 2-45 agreements regarding a defeasance of the parcel upon the passage of
 2-46 time or occurrence or non-occurrence of any event;
 2-47 (13) a statement that the individual acknowledges that
 2-48 the individual will be estopped from claiming the conveyance to the
 2-49 entity is a sham or pretended sale, including a pretended sale under
 2-50 Section 50(c), Article XVI, Texas Constitution;
 2-51 (14) a statement that the individual acknowledges that
 2-52 the individual will be estopped from claiming the individual had
 2-53 not abandoned homestead rights, if any, in the parcel by executing
 2-54 the deed;
 2-55 (15) a statement that the individual understands that
 2-56 if the parcel is valued for ad valorem tax purposes as qualified
 2-57 open-space land, the entity must reapply in its own name by the
 2-58 applicable filing deadline; and
 2-59 (16) a statement that the individual has had an
 2-60 opportunity:
 2-61 (A) to review the affidavit prior to the
 2-62 affidavit's execution; and
 2-63 (B) to consult with an attorney before the
 2-64 affidavit's execution, whether or not the opportunity to consult
 2-65 with an attorney was exercised.
 2-66 (e) If the individual conveying a parcel under Subsection
 2-67 (b) is married, the individual's spouse must join in the execution
 2-68 of:
 2-69 (1) the deed; and

3-1 (2) the affidavit described by Subsection (d).
3-2 (f) The entity or a lender for value may conclusively rely
3-3 on an affidavit described by Subsection (d).

3-4 (g) Notwithstanding any other provision of this section, a
3-5 transaction that does not meet the requirements of this section is
3-6 not invalid if the homestead has been abandoned or disclaimed as
3-7 provided by other provisions of law.

3-8 SECTION 2. This Act takes effect September 1, 2023.

3-9 * * * * *