

PROPERTY CODE

TITLE 3. PUBLIC RECORDS

CHAPTER 11. PROVISIONS GENERALLY APPLICABLE TO PUBLIC RECORDS

Sec. 11.001. PLACE OF RECORDING. (a) To be effectively recorded, an instrument relating to real property must be eligible for recording and must be recorded in the county in which a part of the property is located. However, if such an instrument grants a security interest by a utility as defined in Section 35.01, Business & Commerce Code, the instrument may be recorded as required by Section 35.02 of that code, and if such instrument is so recorded, the lien and the secured interest created by such instrument shall be deemed perfected for all purposes.

(b) If an instrument has been recorded in a proper county, the subsequent creation of a new county containing property conveyed or encumbered by the instrument does not affect the recording's validity or effect as notice. The county court of the new county shall at its own expense:

(1) obtain a certified transcript of the record of all instruments conveying or encumbering property in the new county;

(2) deposit the transcript for public inspection in the recorder's office of the new county; and

(3) make an index of the transcript.

Acts 1983, 68th Leg., p. 3486, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1989, 71st Leg., ch. 999, Sec. 1, eff. Aug. 28, 1989.

Sec. 11.002. ENGLISH LANGUAGE. (a) An instrument relating to real or personal property may not be recorded unless it is in English or complies with this section.

(b) An authenticated instrument not in English that was executed before August 22, 1897, may be recorded and operate as constructive notice from the date of filing if:

(1) a correct English translation is recorded with the original instrument; and

(2) the accuracy of the translation is sworn to before an officer authorized to administer oaths.

(c) An instrument acknowledged outside the United States or its territories in accordance with Section 121.001(c)(3), Civil Practice and Remedies Code, that contains a certificate, stamp, or seal of a notary public or other official before whom the acknowledgment was taken or an apostille relating to the acknowledgment, any portion of which is not in English, may be recorded and operate as constructive notice from the date of filing if:

(1) a correct English translation of any non-English portion of the certificate, stamp, seal, or apostille is recorded with the original instrument;

(2) the accuracy of the translation is sworn to before an officer authorized to administer oaths; and

(3) any apostille relating to the acknowledgment complies with the Hague Convention dated October 5, 1961, titled Convention Abolishing the Requirement of Legalisation for Foreign Public Documents.

Acts 1983, 68th Leg., p. 3486, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1987, 70th Leg., ch. 891, Sec. 2, eff. Sept. 1, 1987.

Sec. 11.003. GRANTEE'S ADDRESS. (a) An instrument executed after December 31, 1981, conveying an interest in real property may not be recorded unless:

(1) a mailing address of each grantee appears in the instrument or in a separate writing signed by the grantor or grantee and attached to the instrument; or

(2) a penalty filing fee equal to the greater of \$25 or twice the statutory recording fee for the instrument is paid.

(b) The validity of a conveyance as between the parties is not affected by a failure to include an address of each grantee in the instrument or an attached writing.

(c) Payment of a filing fee and acceptance of the instrument by the county clerk for recording creates a conclusive presumption that the requirements of this section have been met.

Acts 1983, 68th Leg., p. 3487, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 11.004. DUTY OF RECORDER. (a) A county clerk shall:

(1) correctly record, as required by law, within a reasonable time after delivery, any instrument authorized or required to be recorded in that clerk's office that is proved, acknowledged, or sworn to according to law;

(2) give a receipt, as required by law, for an instrument delivered for recording;

(3) record instruments relating to the same property in the order the instruments are filed; and

(4) provide and keep in the clerk's office the indexes required by law.

(b) A county clerk who violates a provision of this section and the sureties on the clerk's bond are liable for damages and, on motion in district court and after three days' notice to the clerk, for a civil penalty of not more than \$500, half of which is payable to the county and half to the person who files the motion.

Acts 1983, 68th Leg., p. 3487, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1989, 71st Leg., ch. 162, Sec. 1, eff. Sept. 1, 1989.

Sec. 11.005. JUDGMENT PROVING AN INSTRUMENT OR CORRECTING A CERTIFICATE. (a) A person interested under an instrument that may be proved for record may bring an action in district court for a judgment proving the instrument.

(b) A person interested under a defectively certified instrument for which acknowledgement or proof of execution has been properly made may bring an action in district court for a judgment correcting the certificate.

(c) If a certified copy of a judgment in a suit under this section that shows proof of an instrument is attached to the instrument, the instrument may be recorded with the same effect as if it were acknowledged.

Acts 1983, 68th Leg., p. 3488, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 11.006. INSTRUMENT AFFECTING TITLE TO LAND IN ARCHER COUNTY. An instrument that in any manner affects title to land in Archer County, Texas, but was recorded in Jack County on or after August 10, 1866, but no later than August 10, 1870, and was made under the hand and seal of the county clerk of Shackelford County, is admissible in evidence in any suit in which secondary evidence is admissible.

Acts 1983, 68th Leg., p. 3488, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 11.007. EFFECT OF CITATION TO REAL PROPERTY RECORDS. A reference in an instrument to the volume and page number, film code number, or county clerk file number of the "real property records" (or other words of similar import) for a particular county is equivalent to a reference to the deed records, deed of trust records, or other specific records, for the purpose of providing effective notice to all persons of the existence of the referenced instrument.

Added by Acts 1989, 71st Leg., ch. 161, Sec. 1, eff. May 25, 1989. Amended by Acts 1991, 72nd Leg., ch. 205, Sec. 1, eff. Aug. 26, 1991.

Sec. 11.008. CONFIDENTIAL INFORMATION IN REAL PROPERTY RECORDS. (a) In this section, "instrument" means a deed or deed of trust.

(b) Notwithstanding Section 191.007(c), Local Government Code, an instrument transferring an interest in real property to or from an individual and disclosing that individual's social security number or driver's license number must include a notice that appears on the top of the first page of the instrument in 12-point boldfaced type or 12-point uppercase letters and reads substantially as follows:

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

(c) The validity of an instrument as between the parties to the instrument and the notice provided by the instrument are not affected by a party's failure to include the notice required under Subsection (b).

(d) The county clerk may not under any circumstance reject an instrument presented for recording solely because the instrument fails to comply with this section.

(e) The county clerk shall post a notice in the county clerk's office stating that instruments recorded in the real property or official public records or the equivalent of the real property or official public records of the county:

(1) are not required to contain a social security number or driver's license number; and

(2) are public records available for review by the

public.

(f) All instruments described by this section are subject to inspection by the public.

(g) Unless this section is cited in a law enacted after September 1, 2003, this section is the exclusive law governing the confidentiality of personal information contained in the real property or official public records or the equivalent of the real property or official public records of a county.

(h) To the extent that federal law conflicts with this section, an instrument must contain the information required by and must be filed in a manner that complies with federal law.

Added by Acts 2003, 78th Leg., ch. 715, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 960, Sec. 1, eff. Sept. 1, 2003. Amended by Acts 2005, 79th Leg., ch. 45, Sec. 1, eff. May 13, 2005.