



## Quitclaim Statute of Limitations

*TLTA seeks introduction and passage of a bill to provide a statute of limitations for quitclaims in the chain of title that provides good faith purchaser status for subsequent transferees that take the property without additional or actual notice of unrecorded matters.*

### **Problem**

In Texas, quitclaims negatively impact the chain of title in perpetuity. Texas law does not provide good faith purchaser status for grantees (those receiving the property) for value with no actual or constructive notice of any outside interests or claims to the property if a quitclaim deed appears in the chain of title. According to case law, the existence of a quitclaim in the property records serves as notice of potential additional claims on the property not only for the initial grantee, but also for subsequent transferees.

Texas courts are increasingly construing instruments as quitclaims based on interpretation of certain phrases despite the document appearing to be a deed conveying title. This judicial characterization can blur the lines between quitclaims and conveyances resulting in the purpose of the recording system to foster certainty about status of ownership of real property being diluted.

### **Solution**

Provide that four years after recording of a quitclaim, a subsequent purchaser or creditor has good faith protection and does not have notice of unrecorded matters based on the quitclaim in the chain of title.

### **Benefits**

The approach of this bill will create certainty and allow for reliance on the property records in establishing ownership of real property while also providing time for a claim to be asserted by third parties after the quitclaim is recorded. Objectivity would increase and subjectivity decrease in the evaluation process. Further, this law would limit the presumption that a quitclaim is notice of a defect and strengthen the purpose of recording statutes to provide certainty in ownership and protect those acting in good faith.

### **Background**

Texas is currently one of few states that has not addressed this quitclaim issue, if not the only one. Many states have provided good faith purchaser status to individuals in the context of a quitclaim either through statute or case law. This proposal does not adopt that standard but instead provides an elegant compromise between the two systems. The proposal allows individuals who wish to challenge a transfer based on a quitclaim ample time to initiate legal action once a quitclaim has been filed in the property record while also providing an opportunity for an individual who subsequently takes the property without actual notice (of another's potential rights) to gain the protection of good faith purchaser status.