Interim Report

TO THE EIGHTY-NINTH TEXAS LEGISLATURE

HOUSE COMMITTEE ON
BUSINESS AND INDUSTRY

JANUARY 2025

HOUSE COMMITTEE ON BUSINESS AND INDUSTRY
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2024

A REPORT TO THE
HOUSE OF REPRESENTATIVES
89TH TEXAS LEGISLATURE

OSCAR LONGORIA
CHAIRMAN

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Committee On
Business and Industry

January 17, 2025

Oscar Longoria
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Dade Phelan
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Business and Industry of the Eighty-eighth Legislature hereby submits its interim report including recommendations for consideration by the Eighty-ninth Legislature.

Respectfully submitted,

Oscar Longoria

Cody Vasut

Sheryl Cole

Frederick Frazier

Jessica González

Gina Hinojosa

Carrie Isaac

Stan Lambert

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Members: Sheryl Cole, Frederick Frazier, Jessica González, Gina Hinojosa, Carrie Isaac, Stan Lambert, Victoria Neave Criado

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PREFACE

The Business and Industry Committee is composed of nine members from across the state, with districts ranging from North Texas, Southeast Texas, and the Rio Grande Valley. It has legislative jurisdiction over all matters pertaining to: industry and manufacturing; industrial safety and adequate and safe working conditions, and the regulation and control of those conditions; hours, wages, collective bargaining, and the relationship between employers and employees; unemployment compensation, including coverage, benefits, taxes, and eligibility; labor unions and their organization, control, management, and administration; the regulation of business transactions and transactions involving property interests; the organization, incorporation, management, and regulation of private corporations and professional associations and the Uniform Commercial Code and the Business Organizations Code; the protection of consumers, governmental regulations incident thereto, the agencies of government authorized to regulate such activities, and the role of the government in consumer protection; privacy and identity theft; homeowners' associations; oversight and regulation of the construction industry; and the following state agencies: the State Office of Risk Management, the Risk Management Board, the Division of Workers' Compensation of the Texas Department of Insurance, the workers' compensation research and evaluation group in the Texas Department of Insurance, the Office of Injured Employee Counsel, including the ombudsman program of that office, and the Texas Mutual Insurance Company Board of Directors.[1]

The Comptroller of Public Accounts estimates that we will have a $24 billion surplus in the upcoming legislative session. This report will outline a few areas that we believe the members of the 89th Legislature should consider as investment opportunities for the state.

The first relates to the housing shortage that we have in the state, particularly for those in the low-to-middle income range, as will be discussed in the first charge of this report. We should look at ways to best use this surplus to encourage the construction of homes, particularly in this range.

Additionally, we must do everything that we can to assist those that are victims of fraudulent deeds on their property, and also invest in ways to better protect potential victims from this illicit activity in the future. This report has suggestions on how we could best do this.

INTERIM CHARGES

1. **Monitoring:** Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 88th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following:
    - HB 4, relating to the regulation of the collection, use, processing, and treatment of consumers' personal data by certain business entities; imposing a civil penalty.

2. **Housing Affordability:** Evaluate the impact on housing prices and rent caused by institutional buyers to determine whether policy changes are needed to ensure families and individuals are not unfairly priced out of homeownership.

3. **Protections Against Fraudulent Deeds:** Examine the proliferation of fraudulent deeds purporting to convey the sale or transfer of real or personal property. Recommend policy changes that will better protect potential victims from this illicit activity.

CHARGE I: Oversee the implementation of relevant legislation passed by the 88th Legislature

Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 88th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation.

HB 4, relating to the regulation of the collection, use, processing, and treatment of consumers' personal data by certain business entities; imposing a civil penalty.

The 88th Legislature passed HB 4, known as the Texas Data Privacy and Security Act ("the Act"). Effective July 1, 2024, the Act is a comprehensive data privacy law authored by Rep. Giovanni Capriglione that was designed to protect the personal data of Texas residents, by regulating the collection, use, processing, and treatment of consumers' personal data by certain business entities. It stipulates that Texans have rights over their personal information, specifically as it relates to access of the information that is being collected about them; the ability to correct inaccuracies or request deletion; as well as the ability to opt-out of targeted advertising, the sale of their data, and profiling. HB 4 tasked the Department of Information Resources as the agency responsible for implementation, and the Office of the Attorney General as the exclusive enforcement authority.

Department of Information Resources

The Department of Information Resources, under the management of the chief privacy officer, is required to review the implementation of the requirements of the Act; create an online portal for members of the public to provide feedback and recommend changes to the Act; and publish a report detailing the status of the implementation of the requirements of the Act and any recommendations to the Legislature regarding changes to the law. At the interim hearing of the Business and Industry Committee, the Privacy Officer, Jennie Hoelscher testified that the Department of Information Resources was on schedule, with the portal having been launched in late-June and was slated to be open through the end of October. She shared that of the ten entries already received, eight were from consumers, and two from data controllers. Ms. Hoelscher further revealed that of those limited entries received consumers are, "Expressing a general need to simplify and streamline the process available for the consumers to exercise their rights under the Act."[2]

While discussing the forthcoming DIR report on the status and implementation of the Texas Data Privacy and Security Act, Ms. Hoelscher shared that it will be broken into three main sections: first will be summarizations of the responses from the portal; second will be a discussion on the implementation of the Act— including any information provided by the Office of the Attorney General on enforcement; and lastly an overview of the progression of privacy laws in other jurisdictions, and how they compare to Texas.[3]

Office of the Attorney General

HB 4 grants exclusive authority to enforce the Act to the Office of the Attorney General. It requires the office to provide an explanation on its website of the responsibilities of data controllers and data processors as well as the consumer rights created by the Act; the creation of an online mechanism through which a consumer may submit a complaint to the Attorney General about a violation; and to investigate violations and bring enforcement actions when appropriate.

Ryan Baasch, Associate Deputy Attorney General for Civil Litigation at the Office of the Attorney General spoke to the committee at the interim hearing to provide an update on the Act. He spoke on the obligations that the Act imposes on businesses within its scope, including the requirement that businesses minimize the types of consumer data collected to what is reasonably necessary in order for them to achieve their business purposes. They must also obtain consent from the consumer before processing certain sensitive data. And they must provide a privacy notice to consumers about how they intend to use the consumer data once collected.

On July 1, the Office of the Attorney General published a webpage providing an overview of Chapter 541 of the Business and Commerce Code, and the responsibilities and rights that were created. They have also established a new complaint portal to accept privacy complaints submitted by Texans. Ryan shared that within the first two months that the portal was in operation, the Office of the Attorney General had already received 527 privacy complaints.

He also shared with the members that as the exclusive enforcement authority of the Act, they must first put a company on notice of a potential violation before taking action, and that they have already provided this notice to multiple companies. He mentioned that a few other states have preceded Texas in respect to many of these provisions saying that, "Most big businesses have had a head start to get their act together and make sure they are compliant."[4] Further adding that many of the complaints that they are seeing so far have been concerns with businesses not allowing consumers to delete or correct inaccuracies in their data.

SUMMARY OF COMMITTEE ACTION

The committee met in a public hearing on Thursday, September 12, 2024 at 9:00 AM in order to hear invited and public testimony on the following: Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 88th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following:

- HB 4, relating to the regulation of the collection, use, processing, and treatment of consumers' personal data by certain business entities; imposing a civil penalty.

September 12, 2024 – 9:00 AM
<u>Implementation of HB 4</u>

1. Baasch, Ryan (Office of the Attorney General)
2. Hoelscher, Jennie (Texas Department of Information Resources)

RECOMMENDATIONS

- Review the report from the Department of Information Resources on the Texas Data Privacy and Security Act, specifically evaluating feedback offered by consumers and data controllers in the state, as well as the section comparing Texas to privacy acts enacted in other jurisdictions.

- Monitor consumer complaints sent to the Office of the Attorney General to see if there is a pattern that should be addressed in a future legislative session.

- Collaborate with stakeholders to determine whether there is an opportunity to streamline the processes by which consumers exercise their rights as are provided under the Act.

CHARGE II: Housing Affordability

Evaluate the impact on housing prices and rent caused by institutional buyers to determine whether policy changes are needed to ensure families and individuals are not unfairly priced out of homeownership.

Overview

There is a housing affordability challenge in Texas. In a recent article, the Dallas Federal Reserve wrote that, "Housing affordability has declined in Texas, a top destination for domestic and international migrants drawn by its historically low cost of living."[5] The committee heard from numerous experts during the interim hearing on the topic, who shared their research in order to help the committee better understand the market forces that led us to where we are today. These include housing supply constraints, rapid population growth, and shifting household structure leading to evolving demand in the market.

There is a significant shortage of single-family housing, specifically in the low-to-middle income range, and tremendous demand for those homes. Investor activity in the housing market certainly plays a role. Though, while studying this issue, the committee learned that determining the specific impact of investors presents major obstacles. For example, there is a lack of consensus when it comes down to even the definition of investors, particularly when identifying or grouping large investors. A 2022 study from the National Association of Realtors titled, "Impact of Institutional Buyers on Home Sales and Single-Family Rentals" defined institutional buyers as any instance when the deed contained "companies, corporations, or limited liability companies (LLCs)." That widely-cited study asserted that Texas led all states at 28 percent of homes purchased by institutional investors.[6] In testimony to the committee, the Chairman of the Texas Association of Realtors, Jef Conn said, "If we could ever figure out how to identify institutional buyers, that would make our jobs a whole lot easier." Sharing that at his own property management company representing over 1,100 homes, 85 percent of owners are LLCs for "tax purposes and for liability protections," while only 20 percent of those owners have more than five homes in their portfolio.[7] Meaning that by the definition used in the NAR study, all of those owners would have been considered institutional investors.

The Research Director at the Texas Real Estate Research Center at Texas A&M University (TRERC), Dr. Daniel Oney testified to the committee that, "Studies adopt a variety of size categories and often focus on a single investor type. Studies often use different, even inconsistent methods, and must rely on what we call 'messy' data that does not easily lend itself to standard analysis." Further adding that, "There are many papers, but few peer-reviewed publications" on the topic.[8] Additionally, it is notable that investor behavior following acquisition differs by the group. Some investors will work to flip and resell the home for a quick profit, while others will turn around and make it available on the rental market.

In this section, we will focus on sharing information gathered on investor activity and behavior, housing trends, and potential impacts that were discovered during our review into housing affordability and the impact of institutional investment in the state's housing market.

Investor Activity and Behavior

The Texas housing market experienced a significant transformation in the years following the financial crisis in 2007-2008, with investor activity playing a substantial role in shaping the landscape of single-family homes and rental market. Precipitated by the burst of housing bubble nationwide, Texas experienced widespread foreclosures and a sharp decline in home values. Subsequently, investors of all sizes increased their holdings in the state's housing market while prices were low and availability was high, and have generally maintained their presence since. TRERC estimates that investors accounted for at least 10 percent of home sales annually since 2015, with purchases peaking during the COVID pandemic in 2022 at 19 percent; and since that peak until present, they represent about 17 percent of home sales in the state.[9] We are able to distinguish varying types of investor groups active in the housing market— each of whom are unique in both activity and behavior. These groups include small buyers in the form of small investor companies, and "mom and pop" landlords; large buyers, both publicly-traded, as well as privately-held companies; and iBuyers, or instant buyers.

Small investor companies and "mom and pop" landlords make up the bulk of investor purchases in the housing market.[10] This is true not only in Texas, but nationally— In a recent article by a CoreLogic economist presenting their Q3 2024 housing data, he notes that 60 percent of investment properties purchased were made by small "mom and pop" investors, each with fewer than 10 properties each in their portfolio.[11] These small investors also dominate the rental market, accounting for 85-90 percent of rental homes in the country.[12]

Investment activity amongst large public and private investors surged right after the financial crisis in 2008. They purchased large tranches of homes and maintained their position for long periods, often trading in bulk amongst themselves in order to optimize their portfolios. TRERC data presented to the committee shows that the share of purchases by large buyers in Texas has never exceeded three percent of the total homes purchased in any period since they began recording data.[13] The median number of purchases by private firms has been less that 1,000 annually, while publicly traded firms accounting for a median of less than 600 annually.[14]

iBuyers are companies that operate using formulas to instantly give homeowners an offer, often without the home even being listed on the market; and the sellers usually receive payment within a few days at most. This type of sale may be appealing to sellers because of the speed and convenience of the transaction— often with very limited disruptions to the sellers daily life, and without the need for staging or open houses on the property.[15] This is unique to the other investment types, because rather than turning around and listing the home as a rental unit like we see with the other investor categories, iBuyers will often make minor repairs to the home, and quickly flip it back for sale on the market.[16] In addition to any profit that is made from the difference of the sale price to the original purchasing price, iBuyers also charge a service or convenience fee typically around 5% of the sales price of the home.[17]

Investment behavior is changing, however; in part because the current housing stock does not allow for wholesale buying activity in today's market, as we have previously seen from large investors. Today, entrants into the market often utilize company mergers and acquisitions; as well as the purchase of individual single-family homes, with anecdotal evidence of them using the traditional MLS system.[18] Additionally, we are seeing a shift in focus to build-to-rent projects in single family housing investment. David Howard of the National Rental Home Council said, "Between 10 and 15 percent of all new homes nationally are built expressly for the purpose of renting."[19] In a recent article in the Wall Street Journal, it was revealed that one of the nation's largest real estate investment trusts just invested $49 million in an upscale build-to-rent community of 126 homes just outside of Austin. An executive for that trust said, "We think we're really in the early stages of what could be a pretty significant, almost new asset class," adding that they expect to invest one billion dollars into the sector moving forward.[20]

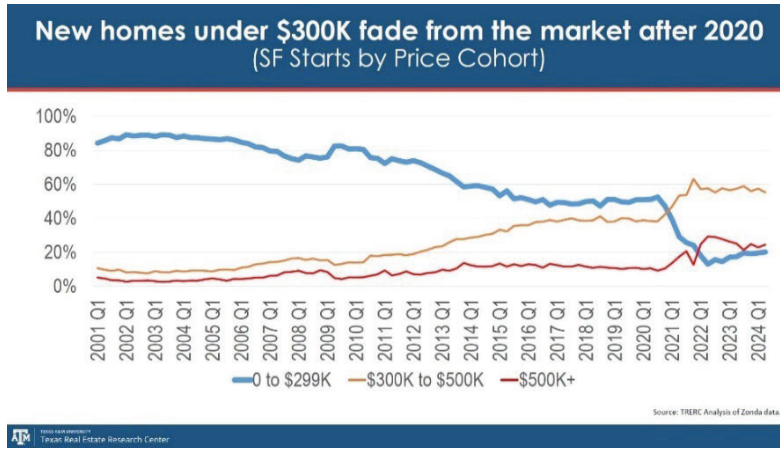
Housing Trends and Affordability

The office of the Comptroller of Public Accounts testified that housing affordability in the United States is at it's lowest levels since 1985, and that Texas is no exception.[21] Characterized by robust economic growth, vast employment opportunities, and no state income tax, Texas has consistently remained appealing to individuals and businesses to relocate and call it home. However, rapid population growth, coupled with underinvestment in the construction of new homes on the market has created an environment that negatively impacts the affordability challenge. Housing demand has consistently outpaced supply, causing home prices to ascend at a rate that is quickly becoming unaffordable to many that are seeking to rent or buy a home in the state, especially young families and first-time homebuyers.

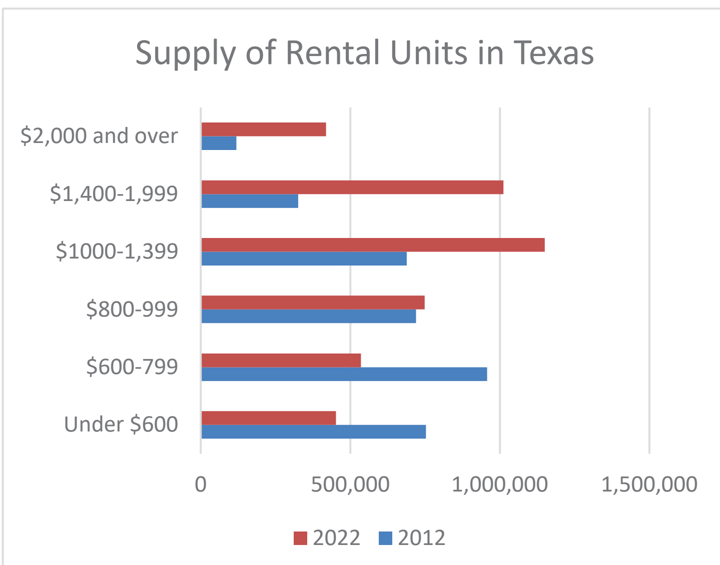
Considering new migration into the state, as well as factoring in localized population changes, Texas has experienced an extraordinary population boom over the last decade. It is estimated that Texas adds 1,300 new residents daily, totaling a net increase of over 474,000 annually. This inflow is most prevalent in major metropolitan areas, with 86 percent of the growth being in the big four cities: Dallas/Fort Worth, Houston, Austin, and San Antonio; 13 percent across the smaller metros, and just one percent in the remaining non-metro areas of the state. [22]

There is a significant shortage of single family homes being constructed in the state, estimated to be over 320,000 in recent reports, with the greatest need being in the low-to-middle income price range.[23] In his testimony to the committee, Texas Realtors Chairman Jef Conn said, "At the end of the day, to fix housing affordability: we need more homes, and we need more homes that people can afford." Conn said that for the investors that he represents, the hard part is figuring out how to maximize value out of a particular tract of land, "because that is their job as a developer," adding that it is a difficult task to accomplish this when dealing with medium-priced homes.[24]

Median home sale prices in the state rose by 87 percent in the last ten years, and by 41 percent in the last five; with a considerable increase occurring between the summer of 2020 and 2022, during the start of the pandemic. The current median sale price in Texas is just shy of $339,000— ranking us 30th nationally. For renters, single family units have increased at a rate of 46 percent over the last ten years, and 28 percent over five years.[25]



Cost burdens are particularly acute for low-to-middle income families. The Comptrollers office testified that 88 percent of the households of annual incomes of less than $20,000 were spending over 30 percent of their monthly income on housing; compared to households making $75,000, only 8 percent were spending 30 percent or more of their monthly budget on housing. This comes at a time when affordable homes are disappearing from the market. As shown in the above graph from TRERC, between 2001 and 2014 homes in the $299,000-and-under range accounted for 60-89 percent of all starts in Texas. That fell to 53 percent by mid 2020; and less than 2 years later, that share fell to 13 percent of all starts. In contrast, the $300,000-$500,000 range made up 55 percent, and $500,000+ homes made up 25 percent.[26]



Renters are facing this same issue—there is a disappearing supply of affordable rental units available in the state. The adjacent chart uses data from the Comptroller's office comparing the number of rental units offered in the state sorted by monthly price groups from 2012 to 2022. In reviewing the data, there were a substantial number of overall units that were under $1,000 per month in 2012. Just ten years later, there are significantly less offered in this range; and now the two largest categories make up the $1,000-$1,999 per month range.[27]

It is also important to look at who is able to participate in the housing market today. In recent hearing of the U.S. House Committee on Financial Services, Subcommittee on Housing and Insurance, Dr. Jessica Lautz of the National Association of Realtors testified that first-time homebuyers are struggling to enter the market, saying that they, "lack the housing equity that boosts the purchasing power of repeat buyers."[28] First-time buyers accounted for 32% of the purchases in 2023, which dropped from the historical norm of 40%. Not only are there less first-time homebuyers entering the market, but that those that do are significantly older and without children. In the 1980s, the typical first-time buyer was in their late 20s; now they are in their mid-30s. Dr. Lautz added that not only has the share of older and repeat buyers grown, the share of home buyers with children under the age of 18 has dropped to a historic low of 30 percent.[29]

Potential Effects of Institutional Investor Presence in the Housing Market

As was stated previously, the fact that there is not a consistent definition for institutional investor makes it extremely difficult to determine the specific impact on housing prices and rent based on their investment presence in the state. That being said, there are a few impacts that repeatedly came up in our review of the topic, which we feel is worthy of noting as observations.

Large investors, both public and private, have a definitive financing advantage when it comes to access to capital compared to the average homebuyer. This can be first seen when making an offer on the home, often as a cash offer. The National Association of Realtors reports that cash homebuyers are increasing, and as of early 2024, accounted for 32 percent of all home sales. In a market where sellers are receiving an average of 2.7 offers, and 16 percent of homes sold for more than list price, bidding wars are becoming more frequent.[30] If all other things equal, cash offers are often preferred by sellers, rather than having to wait for mortgage backed financing, for example. Additionally, access to capital can be advantageous when the home is in need of substantial repair. A study by the Urban Institute noted two institutional investors who spent $15,000-$39,000 make substantial repairs and renovations to their newly acquired home; compared to $6,300, which is what the study calculated a typical homeowner spends for home repair in the first year after purchasing.[31]

Increase demand for homes, particularly in supply-constrained markets can increase the price-to-income ratio in these markets. This can be problematic for potential homebuyers that may be priced out of the homes in the area that is already facing a shortage of housing options on the market. TRERC shared with the committee that for every $1,000 increase in the median price of Texas homes, more than 10,000 households are priced out of the market.[32]

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September 12, 2024 – 9:00 AM
<u>Housing Affordability</u>

1. Billings, David (Self; City of Fate)
2. Conn, Jef (Texas Realtors)
3. Counihan, Will (Texas Comptroller of Public Accounts)
4. Gray, Gordon (Self; Pinpoint Policy Institute)
5. Green, Kathy (AARP Texas)
6. Hale, J.D. (Texas Association of Builders)
7. Howard, David (Self; The National Rental Home Council)
8. Laredo, Taylor (Texas Housers)
9. Matthews, Stephanie (Texans for Reasonable Solutions)
10. Oney, Daniel (Texas Real Estate Research Center at Texas A&M University)
11. Rust, Mike (Texas Apartment Association)

RECOMMENDATIONS

- Consider ways to improve the collection and analysis of data on institutional investment in the housing market to better understand its impact on housing affordability and homeownership rates.

- Examine ways to increase housing stock of affordable homes in the state.

- Monitor the usage of the eviction process by institutional investors to see if there is an increase in filings compared to smaller mom and pop landlords. Consider tenant protections if necessary.

CHARGE III: Protections Against Fraudulent Deeds

Examine the proliferation of fraudulent deeds purporting to convey the sale or transfer of real or personal property. Recommend policy changes that will better protect potential victims from this illicit activity.

Overview

Deed Fraud, also known as real property theft, is the illegal transfer of property by forging a deed that wrongfully claims that a transfer was made, and then filing that into the property records. It can often go undetected for months or even years; and once discovered, can be devastating to the victims. Meanwhile, once the fraudulent deed is on file, the criminal may sell the property to an unsuspecting buyer; take out a loan against the property; or even begin the process of eviction towards the tenants.[33]

At the interim hearing in September, the committee heard from Norma Adams-Wade, a retiree from South Dallas who testified that she was the victim of real property theft at her late parents' home in the historically Black community in which she grew up as a child. She described getting a frantic call early one morning in September of 2022 from a concerned neighbor, saying that there was a crew on scene at her property, actively clearing brush on her lot while they were on the phone. This led to her racing to the property to speak with supervisor of the crew, who then connected her with the person who had purchased the property, which led to calls with the real estate broker, and law enforcement. Over the course of the next seven months she made multiple trips to the legal library, spoke with the Dallas County District Attorney's office and various pro bono attorneys, filed motions at the courthouse— all for the purpose of trying to track down and serve the names that were listed on the fraudulent deed in an attempt to get them to appear at a legal proceeding in Dallas; at which she hoped could help her get her property back.

At the committee hearing, Ms. Adams-Wade told the members that it was still to this day unresolved, just over two years after she learned about this fraudulent deed on her family home. She emphasized that despite having to do all of this at her own expense, as someone who was retired and dependent on social security, that the worst part of this entire experience was, "The time, the anguish, and the legitimate fear" that this process was causing her while she was simply trying to get back what she owned.[34]

How Real Property Theft Happens

Phillip Clark, Assistant District Attorney at the Dallas County District Attorney's office testified that he has worked on over 320 of these types of cases in Dallas County, dating back to his first case in 2017. He explained that the process often follows these steps: first, the thief identifies their victim. Often, they look for something that they can sell quick, or see as an easy target— to lower their chance of getting caught. Examples could be a vacant home; belonging to the elderly; or belonging to someone who is recently deceased.[35] AARP representative, Kathy Green echoed this point saying that elderly adults are particularly impacted by deed fraud, and that she hears from AARP members across the country on being victims of this issue "all of the time."[36]

Second, they look up a template of a deed online. To that template they can add a legal description of the property, the owner's name, and then often forge the signature. All of which can be found online in public records. They then take that deed to a notary, possibly using a fake ID; or the thief can be a notary themselves; or they steal a legitimate notarization from an entirely different document and paste it onto this fraudulent document.

Lastly, the County Clerk receives this document and checks for the following: a legal description, signature from the seller (grantor), notarization, and paid filing fee. If it meets those requirements, they accept it, and it is stamped, filed, and recorded. There are limited circumstances, where if they have a reasonable basis to believe in good faith that there is fraud there are steps that they can take to look into that. But generally, if it meets the necessary requirements, it is filed. At this point, though it is fraudulent, it is now official and publicly available for all title companies to reference, and future buyers to verify. The President of the County & District Clerks Association of Texas, and Dallas County Clerk, John Warren testified that every month he files over 5,000 deed record documents on behalf of Dallas County. Of these documents, he named four types that he says are generally used to commit fraud: Affidavit of Heirship, Quit Claim Deed, Warranty Deed, and Memorandum of Contract.[37]

Measures to Assist Victims and Prevent Future Cases

We heard testimony from Ms. Adams-Wade, as well as other experts about the confusing language and ultimate inapplicability of Texas Government Code §51.903 titled Action on Fraudulent Lien on Property. Ms. Adams-Wade spoke about how she believed this Motion for Judicial Review was the appropriate remedy for her situation, only to be told that this section did not apply in her case after spending her time and effort in preparation. It was suggested that this section could be improved to make it easier to understand and be more useful for victims like Ms. Adams-Wade.

During the hearing, many questions were raised about the role of the Notary Public in these cases. As was discussed previously, this crime often goes undiscovered for months or even years; and contacting the notary to inquire about the information that is required to be stored in their record book was mentioned as often being one of the first things done in the investigation into the fraudulent deed. However, notary publics currently only have to maintain and provide those public records for three years.[38] Extending this record retention requirement beyond three years could help in those situations. Though, it is important to note that often in cases of real property theft, the stamp was simply stolen from an unrelated document— at no fault of the notary public. Phillip Clark testified that he saw stolen notary stamp in about half of his cases.[39]

Lastly, over 40 County Clerks throughout Texas offer Property Fraud Alerts at no charge for property owners in their district.[40] This is a service that is paid for by the county, and sends an automated alert to the property owner if any documents are filed using their information. This does not prevent the filing of the fraudulent documents; however, it is an excellent way for property owners to remain alert. The program is not well publicized, however. Mr. Warren said that while the Dallas County Tax Assessor sends out more than 450,000 tax notices, the Property Fraud Alert participation is only at 13,575 subscribers. Mr. Warren told the committee members, "We need to figure out a way to make that number grow."[41]

SUMMARY OF COMMITTEE ACTION

The committee met in a public hearing on Thursday, September 12, 2024 at 9:00 AM in order to hear invited and public testimony on the following: Examine the proliferation of fraudulent deeds purporting to convey the sale or transfer of real or personal property. Recommend policy changes that will better protect potential victims from this illicit activity.

September 12, 2024 – 9:00 AM
Housing Affordability

1. Adams-Wade, Norma (Self)
2. Baez, Rosalva (Self; American Association of Notaries)
3. Clark, Phillip (Dallas County DA's Office)
4. Fogg, Jennifer (Self; County & District Clerks Association of Texas)
5. Green, Kathy (AARP Texas)
6. Johnson, Leslie (Texas Land Title Association)
7. Sarkar, Neal (Harris County Attorney's Office)
8. Tabbara, Kal (American Association of Notaries)
9. Warren, John (Self; County & District Clerks Association of Texas)

RECOMMENDATIONS

- Appropriate and implement a statewide Property Fraud Alert System that would send an automated notification to property owners if a document pertaining to their property has been recorded at their county clerk's office. Explore ways to advertise this program in order to increase participation.

- Establish a fund by which to assist victims of real property theft navigate the legal system in order to restore their property rights. This could be a partnership with a law school or other clinic, or the creation of an ombudsman program.

- Collaborate with interested parties to review and clarify Texas Government Code §51.903, being mindful of how to make the Motion for Judicial Review more useful for victims of real property theft.

- Work together with the Secretary of State's Office to ensure appropriate record retention for Notary Publics in the state. Consider utilizing technology in order to better preserve these public records.

- Consider ways to be able to quantify and track the cases of real property theft in the state.

ENDNOTES

[1] House Rules Manual, Rule 3 Sec. 3, 88th Legislature, 2023, https://www.house.texas.gov/pdfs/resources/House-Rules.pdf.
[2] Hoelscher, Jennie. Texas Department of Information Resources, B&I Testimony, 12 Sept 2024.
[3] Ibid.
[4] Baasch, Ryan. Office of the Attorney General, B&I Testimony, 12 Sept 2024.
[5] Wenhua Di, and Aparna Jayashankar, “Texas’ Cheap Housing Edge Slipping Away as Resilient Demand Outpaces Supply,” Federal Reserve Bank of Dallas, https://www.dallasfed. org/research/swe/2023/swe2304, April 2023.
[6] National Association of Realtors Research Group, “Impact of Institutional Buyers on Home Sales and Single-Family Rentals,” May 2022
[7] Conn, Jef. Texas Association of Realtors, B&I Testimony, 12 Sept 2024.
[8] Oney, Daniel. Texas Real Estate Research Center at TAMU, B&I Testimony, 12 Sept 2024.
[9] Ibid.
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