

By: Walle

H.B. No. 1647

A BILL TO BE ENTITLED

AN ACT

relating to the dissemination of eviction case information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 24, Property Code, is amended by adding Sections 24.012 and 24.013 to read as follows:

Sec. 24.012. ACCESS TO EVICTION CASE INFORMATION. (a) In this section:

(1) "Eviction case" means a lawsuit brought under this chapter to recover possession of leased or rented residential real property from a tenant.

(2) "Eviction case information" means all records and files related to a filing of an eviction case, including petitions and dispositions.

(b) This section applies to an eviction case in which an order granting limited dissemination of eviction case information has not been entered under Section 24.013.

(c) The court clerk shall allow access to eviction case information only as follows:

(1) to a party to the action, including a party's attorney;

(2) to a person who provides the clerk with:

(A) the names of at least one plaintiff and one defendant; and

(B) the address of the premises, including the

1 apartment or unit number, if any;

2 (3) to a resident of the premises who:

3 (A) provides the clerk with the name of one of the
4 parties or the case number; and

5 (B) shows proof of residency;

6 (4) to a person in accordance with a court order, which
7 may be granted ex parte, issued on a showing of good cause;

8 (5) to a person in accordance with a court order issued
9 at the time the judgment in the case is entered, if the judgment is
10 entered:

11 (A) for the plaintiff after a trial; and

12 (B) after the 60th day after the date the
13 complaint was filed; or

14 (6) to any other person after the 60th day after the
15 date the complaint was filed:

16 (A) if the plaintiff prevailed in the action
17 before the 60th day after the date the complaint was filed; or

18 (B) if the case involved residential real
19 property purchased at a foreclosure sale and judgment against all
20 defendants was entered for the plaintiff after a trial.

21 (d) If a default or default judgment is set aside after the
22 60th day after the date the complaint was filed, this section
23 applies as if the complaint had been filed on the date the default
24 or default judgment is set aside.

25 (e) This section may not be construed to prohibit the court
26 from issuing an order that bars access to eviction case information
27 if the parties to the case so stipulate.

1 (f) For purposes of this section, good cause for access to
2 eviction case information includes the gathering of:

3 (1) newsworthy facts by a journalist as defined by
4 Article 38.11, Code of Criminal Procedure; and

5 (2) evidence by a party to the eviction case solely for
6 the purpose of making a request for judicial notice.

7 (g) After the filing of an eviction case, the court clerk
8 shall mail notice to each defendant named in the case. The notice
9 must be mailed to the address provided in the complaint. The notice
10 must contain a statement that an eviction case has been filed
11 against the defendant and that access to the eviction case
12 information will be delayed for 60 days except to a party, an
13 attorney for one of the parties, a person who has good cause for
14 access as determined by a court, or any other person who provides to
15 the clerk:

16 (1) the names of at least one plaintiff and one
17 defendant in the case and provides to the clerk the address,
18 including any applicable apartment or unit number, of the subject
19 premises; or

20 (2) the name of one of the parties in the case or the
21 case number and can establish through proper identification that
22 the person resides at the address identified in the case.

23 (h) The notice must also contain:

24 (1) the name and telephone number of the county bar
25 association for the county in which the case is filed;

26 (2) the name and telephone number of any entity that
27 requests inclusion on the notice and demonstrates to the

1 satisfaction of the court that the entity has been certified by the
2 State Bar of Texas as a lawyer referral service and maintains a
3 panel of attorneys qualified in the practice of landlord-tenant law
4 under the minimum standards for a lawyer referral service
5 established by the State Bar of Texas and Chapter 952, Occupations
6 Code;

7 (3) the following statement: "The State Bar of Texas
8 certifies lawyer referral services in Texas and publishes a list of
9 certified lawyer referral services. To locate a lawyer referral
10 service in your area, go to the State Bar's Internet website at
11 www.texasbar.com or call 1-800-204-2222.";

12 (4) the names and telephone numbers of offices that
13 provide legal services at low or no cost to low-income persons in
14 the county in which the action is filed; and

15 (5) a statement that a person receiving the notice may
16 call the telephone numbers described in the notice for legal advice
17 regarding the case.

18 (i) The court clerk shall mail a notice required under this
19 section not earlier than the 24th hour and not later than the 48th
20 hour after the time the eviction case is filed, excluding weekends
21 and holidays.

22 (j) The court clerk shall mail separately to the subject
23 premises one copy of the notice addressed to "all occupants." The
24 notice does not constitute service of the summons and complaint.

25 Sec. 24.013. LIMITED DISSEMINATION OF EVICTION CASE
26 INFORMATION. (a) In this section, "eviction case" and "eviction
27 case information" have the meanings assigned by Section 24.012.

1 (b) Concurrently with a final judgment or dismissal in an
2 eviction case or on petition of a defendant in an eviction case
3 after a final judgment or dismissal in the case, a court shall enter
4 an order of limited dissemination of the eviction case information
5 pertaining to the defendant if:

6 (1) the judgment is or was entered in favor of the
7 defendant;

8 (2) the eviction case is or was dismissed without any
9 relief granted to the plaintiff;

10 (3) the defendant is or was a tenant not otherwise in
11 default and the eviction case was brought by the landlord's
12 successor in interest following foreclosure; or

13 (4) at least three years have elapsed from the date of
14 the final judgment in the eviction case.

15 (c) Concurrently with a final judgment or dismissal in an
16 eviction case or on petition of a defendant in an eviction case
17 after a final judgment or dismissal in the case, a court may order
18 the limited dissemination of eviction case information pertaining
19 to the defendant if the court finds that:

20 (1) the limited dissemination of the eviction case
21 information is in the interest of justice; and

22 (2) the interest of justice is not outweighed by the
23 public's interest in knowing the eviction case information.

24 (d) If an order is entered granting limited dissemination of
25 eviction case information pertaining to a defendant under this
26 section:

27 (1) all courts or court clerks shall delete or redact

1 all index references to the name of the defendant that relate to the
2 eviction case information from the public records; and

3 (2) except to the extent permitted by federal law, a
4 credit reporting agency, a person who regularly collects and
5 disseminates eviction case information, or a person who sells
6 eviction case information may not:

7 (A) disclose the existence of the eviction case;
8 or

9 (B) use the eviction case information as a factor
10 in determining a score or recommendation in a tenant screening
11 report regarding the defendant.

12 (e) A person who knowingly violates Subsection (d) is liable
13 to an injured party for:

- 14 (1) actual damages;
15 (2) exemplary damages of \$1,000; and
16 (3) reasonable attorney's fees and court costs.

17 (f) Notwithstanding Section 41.004(a), Civil Practice and
18 Remedies Code, a court shall award exemplary damages under
19 Subsection (e)(2) to the injured party irrespective of whether the
20 party is awarded actual damages.

21 (g) The supreme court shall adopt rules necessary to
22 implement this section.

23 SECTION 2. Not later than January 1, 2022, the Texas Supreme
24 Court shall adopt the rules necessary to implement Sections 24.012
25 and 24.013, Property Code, as added by this Act.

26 SECTION 3. This Act takes effect January 1, 2022.