

By: Bonnen

H.B. No. 3551

A BILL TO BE ENTITLED

AN ACT

relating to the notice to vacate the premises in forcible entry and
detainer actions.

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

SECTION 1. Section 24.005, Property Code, is amended by
amending Subsection (b) and adding Subsections (b-1) and (b-2) to
read as follows:

(b) Except as provided in Subsection (b-1), if ~~if~~ the
occupant is a tenant at will or by sufferance, the landlord must
give the tenant at least three days' written notice to vacate before
the landlord files a forcible detainer suit unless the parties have
contracted for a shorter or longer notice period in a written lease
or agreement.

(b-1) If the property is the residence of the occupant, and
the occupant was an owner of the property prior to a foreclosure
sale of the property, the purchaser must give the occupant at least
14 days' written notice to vacate. If the property ~~a building~~ is
purchased at a ~~tax foreclosure sale or a trustee's~~ foreclosure
sale under a lien superior to a ~~the~~ tenant's lease and the tenant
timely pays rent and is not otherwise in default under the tenant's
lease after foreclosure, the purchaser must give a residential
tenant of the property ~~building~~ at least 90 ~~30~~ days' written
notice to vacate if the purchaser chooses not to continue or renew
the lease. The tenant is considered to timely pay the rent owed for

1 the month of the foreclosure sale under this subsection if, during
2 the month of the foreclosure sale, the tenant pays the rent for that
3 month to the landlord [~~before receiving any notice that a~~
4 ~~foreclosure sale is scheduled during the month~~] or pays the rent for
5 that month to [~~the foreclosing lienholder or~~] the purchaser at
6 foreclosure not later than the fifth day after the date of receipt
7 of a written notice of the name and address of the purchaser that
8 requests a payment. Before a foreclosure sale, a foreclosing
9 lienholder may give written notice to a tenant stating that a
10 foreclosure notice has been given to the landlord or owner of the
11 property and specifying the date of the possible foreclosure, and
12 may provide a warning that the removal of fixtures or the
13 intentional damage of the property could subject the party to
14 criminal prosecution.

15 (b-2) A notice to vacate given to an occupant or tenant
16 pursuant to Subsection (b-1) must state:

17 (1) the date the property was purchased at a
18 foreclosure sale;

19 (2) the name of the owner of the property, and the
20 contact information for the owner or the owner's agent;

21 (3) the date that the owner demands the occupant or
22 tenant vacate the property; and

23 (4) a statement in underlined or bold print that if a
24 person was leasing the property prior to the foreclosure, the new
25 owner of the property may be required to honor any lease still
26 remaining on the property in some circumstances, otherwise the new
27 owner is entitled to elect to terminate or fail to renew the lease

1 and give the tenant a 90-day notice to vacate, and the failure to
2 vacate the premises by the time stated in the notice may result in
3 an eviction suit being filed against all occupants.

4 SECTION 2. Section 24.005, Property Code, is amended by
5 adding Subsection (j) to read as follows:

6 (j) The notice to vacate must contain the following or
7 substantially similar language:

8 A LANDLORD IS REQUIRED TO GIVE A TENANT WRITTEN NOTICE TO
9 VACATE UNDER CHAPTER 24, TEXAS PROPERTY CODE, BEFORE THE LANDLORD
10 MAY FILE A LAWSUIT TO EVICT THE TENANT IN JUSTICE COURT.

11 A PERSON WHO INTENTIONALLY OR KNOWINGLY DAMAGES OR DESTROYS
12 THE PROPERTY THAT IS THE SUBJECT OF THIS NOTICE TO VACATE MAY BE
13 COMMITTING A CRIME AND MAY BE SUBJECT TO A FINE, IMPRISONMENT, OR
14 BOTH A FINE AND IMPRISONMENT. IF A CRIME IS COMMITTED, DEPENDING ON
15 THE AMOUNT OF LOSS INCURRED BY THE OWNER OF THE PROPERTY, THE CRIME
16 MAY BE A MISDEMEANOR OR A FELONY.

17 SECTION 3. This Act applies only to a notice to vacate the
18 premises in a forcible entry and detainer action that is given on or
19 after the effective date of this Act, without regard to whether the
20 action commenced before, on, or after that date.

21 SECTION 4. This Act takes effect January 1, 2010.