

By: Hartnett

H.B. No. 1111

A BILL TO BE ENTITLED

AN ACT

relating to a tenant's failure to pay rent during an appeal of an
eviction for nonpayment of rent.

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

SECTION 1. Section 24.0054, Property Code, is amended by
amending Subsections (a), (b), and (e) and adding Subsection (a-1)
to read as follows:

(a) During an appeal of an eviction case for nonpayment of
rent, if a tenant fails to pay one rental period's rent into the
justice court registry within five days of the date the tenant filed
a pauper's affidavit in accordance with Rule 749b(1), Texas Rules
of Civil Procedure, and Section 24.0053, the justice court shall
issue a writ of possession, without hearing, on the filing of a
notice of default by the appellee. A writ of possession under this
subsection may be executed immediately, and the sheriff or
constable shall execute the writ as soon as practicable.

(a-1) During an appeal of an eviction case for nonpayment of
rent, if a tenant fails to pay rent into the justice court or county
court registry as the rent becomes due under the rental agreement in
accordance with the Texas Rules of Civil Procedure and Section
24.0053, and if the landlord has not previously obtained a writ of
possession from the justice court, the landlord may file with the
county court a sworn motion that the tenant failed to pay rent as
required. The landlord shall notify the tenant of the motion and

1 the hearing date.

2 (b) If the county court finds that the tenant has not
3 complied with the payment requirements of the Texas Rules of Civil
4 Procedure and Section 24.0053, and if the landlord has not
5 previously obtained a writ of possession from the justice court,
6 the county court shall immediately issue a writ of possession
7 unless on or before the day of the hearing the tenant pays into the
8 court registry:

9 (1) all rent not paid in accordance with the Texas
10 Rules of Civil Procedure and Section 24.0053; and

11 (2) the landlord's reasonable attorney's fees, if any,
12 in filing the motion.

13 (e) In a motion or hearing [~~in county court~~] under
14 Subsection (a-1) [~~(a)~~], or in a motion to dismiss an appeal of an
15 eviction case in county court, the parties may represent themselves
16 or be represented by their authorized agents, who need not be
17 attorneys.

18 SECTION 2. The change in law made by this Act applies only
19 to an eviction suit filed on or after the effective date of this
20 Act. A suit filed before the effective date of this Act is governed
21 by the law in effect immediately before the effective date of this
22 Act, and that law is continued in effect for that purpose.

23 SECTION 3. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2011.