

**House Bill 1111**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 24.004, Property Code, is amended to read as follows:

Sec. 24.004. JURISDICTION. A justice court in the precinct in which the real property is located has jurisdiction in eviction suits. Eviction suits include forcible entry and detainer and forcible detainer suits. A justice court has jurisdiction to issue a writ of possession under Section 24.0054(a), (a-1), and (a-2).

SECTION 2. Section 24.0053, Property Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) If a tenant files a pauper's affidavit in the period prescribed by Section 24.0052 to appeal an eviction for nonpayment of rent, the justice court shall provide to the tenant a written notice at the time the pauper's affidavit is filed that contains the following information in bold or conspicuous type:

(1) the amount of the initial deposit of rent stated in the judgment that the tenant must pay into the justice court registry;

(2) whether the initial deposit must be paid in cash, cashier's check, or money order, and to whom the cashier's check or money order, if applicable, must be made payable;

(3) the date by which the initial deposit must be paid into the justice court registry;

(4) for a court that closes before 5 p.m. on the date specified by Subdivision (3), the time the court closes; and

(5) a statement that failure to pay the required amount into the justice court registry by the date prescribed by Subdivision (3) may result in the court issuing a writ of possession without hearing.

SENATE VERSION (CS)

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Sec. 24.004. JURISDICTION. A justice court in the precinct in which the real property is located has jurisdiction in eviction suits. Eviction suits include forcible entry and detainer and forcible detainer suits. A justice court has jurisdiction to issue a writ of possession under Sections 24.0054(a), (a-2), and (a-3).

SECTION 2. Section 24.0053, Property Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) If a tenant files a pauper's affidavit in the period prescribed by Section 24.0052 to appeal an eviction for nonpayment of rent, the justice court shall provide to the tenant a written notice at the time the pauper's affidavit is filed that contains the following information in bold or conspicuous type:

(1) the amount of the initial deposit of rent stated in the judgment that the tenant must pay into the justice court registry;

(2) whether the initial deposit must be paid in cash, cashier's check, or money order, and to whom the cashier's check or money order, if applicable, must be made payable;

(3) the **calendar** date by which the initial deposit must be paid into the justice court registry;

(4) for a court that closes before 5 p.m. on the date specified by Subdivision (3), the time the court closes; and

(5) a statement that failure to pay the required amount into the justice court registry by the date prescribed by Subdivision (3) may result in the court issuing a writ of possession without hearing.

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(a-2) The date by which an initial deposit must be paid into the justice court registry under Subsection (a-1)(3) must be within five days of the date the tenant files the pauper's affidavit as required by Rule 749b(1), Texas Rules of Civil Procedure.

SECTION 3. Section 24.0054, Property Code, is amended by amending Subsections (a) and (e) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) During an appeal of an eviction case for nonpayment of rent, if a tenant fails to pay the initial rent deposit into the justice court registry within five days of the date the tenant filed a pauper's affidavit as required by Rule 749b(1), Texas Rules of Civil Procedure, and Section 24.0053, and if the justice court has provided the written notice required by Section 24.0053(a-1), the justice court shall immediately issue a writ of possession, without hearing.

The sheriff or constable shall execute the writ in accordance with Section 24.0061(d) through (h). The landlord shall bear the costs of issuing and executing the writ of possession.

(a-1) A justice court may not forward the transcript and original papers in an eviction case to the county court before the fifth day after the date the tenant files a pauper's affidavit unless the court confirms that the tenant has timely paid the initial deposit of rent into the justice court registry in accordance with Section 24.0053. If the tenant has not timely

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(a-2) The date by which an initial deposit must be paid into the justice court registry under Subsection (a-1)(3) must be within five days of the date the tenant files the pauper's affidavit as required by Rule 749b(1), Texas Rules of Civil Procedure.

SECTION 3. Section 24.0054, Property Code, is amended by amending Subsections (a) and (e) and adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a) During an appeal of an eviction case for nonpayment of rent, the justice court on request shall immediately issue a writ of possession, without hearing, if:

(1) a tenant fails to pay the initial rent deposit into the justice court registry within five days of the date the tenant filed a pauper's affidavit as required by Rule 749b(1), Texas Rules of Civil Procedure, and Section 24.0053;

(2) the justice court has provided the written notice required by Section 24.0053(a-1); and

(3) the justice court has not yet forwarded the transcript and original papers to the county court as provided by Subsection (a-2).

(a-1) The sheriff or constable shall execute a writ of possession under Subsection (a) in accordance with Sections 24.0061(d) through (h). The landlord shall bear the costs of issuing and executing the writ of possession.

(a-2) The justice court shall forward the transcript and original papers in an appeal of an eviction case to the county court but may not forward the transcript and original papers before the sixth day after the date the tenant files a pauper's affidavit, except that, if the court confirms that the tenant has timely paid the initial deposit of rent into the justice court

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paid the initial deposit into the justice court registry, the justice court shall issue a writ of possession notwithstanding the fact that the tenant has perfected an appeal by filing a pauper's affidavit that has been approved by the court. The justice court shall forward the transcript and original papers in the case to the county court for trial de novo, notwithstanding the fact that a writ of possession under this section has already been issued.

(a-2) Notwithstanding Subsections (a) and (a-1), the justice court may not issue a writ of possession if the tenant has timely deposited the tenant's portion of the rent claimed by the tenant under Section 24.0053(d).

(a-3) 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, 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 the hearing date.

(e) In a motion or hearing [~~in county court~~] under Subsection (a-3) [~~(a)~~], the parties may represent themselves or be represented by their authorized agents, who need not be attorneys.

SECTION 4. The change in law made by this Act applies only to an eviction suit filed on or after the effective date of this Act. A suit filed before the effective date of this Act is

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registry in accordance with Section 24.0053, the court may forward the transcript and original papers immediately. If the tenant has not timely paid the initial deposit into the justice court registry, the justice court on request shall issue a writ of possession notwithstanding the fact that the tenant has perfected an appeal by filing a pauper's affidavit that has been approved by the court. The justice court shall forward the transcript and original papers in the case to the county court for trial de novo, notwithstanding the fact that a writ of possession under this section has already been issued.

(a-3) Notwithstanding Subsections (a) and (a-2), the justice court may not issue a writ of possession if the tenant has timely deposited the tenant's portion of the rent claimed by the tenant under Section 24.0053(d).

(a-4) 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, 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 the hearing date.

(e) In a motion or hearing [~~in county court~~] under Subsection (a-4), or in a motion to dismiss an appeal of an eviction case in county court [~~(a)~~], the parties may represent themselves or be represented by their authorized agents, who need not be attorneys.

SECTION 4. Same as House version.

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governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect January 1, 2012.

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SECTION 5. Same as House version.

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