

BILL ANALYSIS

H.B. 3561
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

As property taxes continue to rise in our state, a landlord is often faced with either leasing a property at a higher rate or selling the property altogether. Interested stakeholders believe this situation could lead to an increase in litigation for wrongful evictions and argue that existing safeguards should be reinforced to protect wrongfully evicted tenants. H.B. 3561 seeks to provide for this protection.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3561 amends the Property Code to establish provisions applicable to a claimant in a wrongful eviction action who establishes that the claimant was wrongfully evicted from property occupied by the claimant under an unexpired written lease and that, at the time of the eviction, the property owner who evicted the claimant would not have been reasonably likely to prevail in an eviction action brought in accordance with statutory provisions governing forcible entry and detainer. The bill authorizes such a claimant to recover, in addition to any other relief to which the claimant is entitled, damages for mental anguish if the claimant establishes that, in the course of the wrongful eviction, the property owner used or threatened violence to convince the claimant to vacate or abandon the property or knowingly or recklessly destroyed or seized all or the majority of the claimant's property that was located on the leased premises.

H.B. 3561 establishes that an award of exemplary damages under the bill's provisions is governed by Civil Practice and Remedies Code provisions applicable to any action in which a claimant seeks damages relating to a cause of action, except that the bill's provisions control to the extent of any conflict. The bill authorizes a claimant entitled to recover damages for mental anguish under the bill's provisions to also recover exemplary damages if the claimant proves by a preponderance of the evidence that the wrongful eviction was pursued by the property owner solely for the purpose of putting the property to a more profitable use. The bill establishes a rebuttable presumption that such a wrongful eviction was solely for that purpose if the wrongful eviction occurred less than six months after the property owner acquired the property and if a structure occupied by the claimant was destroyed by the property owner on or before the 60th day after the date of the wrongful eviction. The bill authorizes the trier of fact to award to such a claimant exemplary damages in an amount that does not exceed the greater of the maximum amount of exemplary damages authorized to be awarded in the action under specified provisions

of the Civil Practice and Remedies Code or up to 25 percent of the fair market value of the property from which the claimant was evicted, determined as of the time of the wrongful eviction. The bill requires the trier of fact, in determining the amount of exemplary damages to be awarded under the bill's provisions, to consider, in addition to evidence considered under specified provisions of the Civil Practice and Remedies Code, evidence relating to the amount of damages necessary to deter future wrongful evictions of a similar nature.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.