

AN ACT

relating to the appeal of a residential eviction suit.

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

SECTION 1. Chapter 24, Property Code, is amended by adding Sections 24.00511 and 24.00512 to read as follows:

Sec. 24.00511. APPEAL BOND FOR CERTAIN EVICTION SUITS. (a) In a residential eviction suit for nonpayment of rent, the justice court shall state in the court's judgment the amount of the appeal bond, taking into consideration the money required to be paid into the court registry under Section 24.0053.

(b) In addition to meeting all other requirements of law, the bond must require the surety to provide the surety's contact information, including an address, phone number, and e-mail address, if any. If any of the contact information changes, the surety shall inform the court of the surety's new contact information.

Sec. 24.00512. CONTEST OF CERTAIN APPEAL BONDS. (a) This section does not apply to an appeal bond issued by a corporate surety authorized by the Texas Department of Insurance to engage in business in this state.

(b) If a party appeals the judgment of a justice court in a residential eviction suit for nonpayment of rent by filing an appeal bond, the opposing party may contest the bond amount, form of the bond, or financial ability of a surety to pay the bond by filing

1 a written notice with the justice court contesting the appeal bond  
2 on or before the fifth day after the date the appeal bond is filed  
3 and serving a copy on the other party. After the notice is filed,  
4 the justice court shall notify the other party and the surety of the  
5 contest.

6 (c) Not later than the fifth day after the date the contest  
7 is filed, the justice court shall hold a hearing to hear evidence to  
8 determine whether to approve or disapprove the amount or form of the  
9 bond or the surety.

10 (d) If a party contests the amount or form of the bond, the  
11 contesting party has the burden to prove, by a preponderance of the  
12 evidence, that the amount or form of the bond, as applicable, is  
13 insufficient. If a party contests the financial ability of a surety  
14 to pay the bond, the party filing the bond must prove, by a  
15 preponderance of the evidence, that the surety has sufficient  
16 nonexempt assets to pay the appeal bond. If the justice court  
17 determines that the amount or form of the bond is insufficient or  
18 the surety does not have sufficient nonexempt assets to pay the  
19 appeal bond, the justice court must disapprove the bond. If the  
20 surety fails to appear at the contest hearing, the failure to appear  
21 is prima facie evidence that the bond should be disapproved.

22 (e) Not later than the fifth day after the date the justice  
23 court disapproves an appeal bond, the party appealing may make a  
24 cash deposit, file a sworn statement of inability to pay with the  
25 justice court, or appeal the decision disapproving the appeal bond  
26 to the county court. If the party appealing fails to make a cash  
27 deposit, file a sworn statement of inability to pay, or appeal the

1 decision disapproving the appeal bond, the judgment of the justice  
2 court becomes final and a writ of possession and other processes to  
3 enforce the judgment must be issued on the payment of the required  
4 fee.

5 (f) If an appeal is filed, the justice court shall transmit  
6 to the county court the contest to the appeal bond and all relevant  
7 documents. The county court shall docket the appeal, schedule a  
8 hearing to be held not later than the fifth day after the date the  
9 appeal is docketed, notify the parties and the surety of the hearing  
10 time and date, and hear the contest de novo. The failure of the  
11 county court to hold a timely hearing is not grounds for approval or  
12 denial of the appeal. A writ of possession may not be issued before  
13 the county court issues a final decision on the appeal bond.

14 (g) After the contest is heard by the county court, the  
15 county clerk shall transmit the transcript and records of the case  
16 to the justice court. If the county court disapproves the appeal  
17 bond, the party may, not later than the fifth day after the date the  
18 court disapproves the appeal bond, perfect the appeal of the  
19 judgment on the eviction suit by making a cash deposit in the  
20 justice court in an amount determined by the county court or by  
21 filing a sworn statement of inability to pay with the justice court  
22 pursuant to the Texas Rules of Civil Procedure. If the tenant is  
23 the appealing party and a cash deposit in the required amount is not  
24 timely made or a sworn statement of inability to pay is not timely  
25 filed, the judgment of the justice court becomes final and a writ of  
26 possession and other processes to enforce the judgment must be  
27 issued on the payment of the required fee. If the landlord is the

1 appealing party and a cash deposit is not timely made or a sworn  
2 statement of inability to pay is not timely filed, the judgment of  
3 the justice court becomes final. If the appeal bond is approved by  
4 the county court, the court shall transmit the transcript and other  
5 records of the case to the justice court, and the justice court  
6 shall proceed as if the appeal bond was originally approved.

7 SECTION 2. Chapter 24, Property Code, is amended by adding  
8 Section 24.00521 to read as follows:

9 Sec. 24.00521. CONTEST OF CERTAIN APPEAL BONDS IN COUNTY  
10 COURT. A contest under Section 24.00512 does not preclude a party  
11 from contesting the appeal bond in the county court after the county  
12 court has jurisdiction over the eviction suit. After the county  
13 court has jurisdiction over the eviction suit, the county court may  
14 modify the amount or form of the bond and determine the sufficiency  
15 of the surety.

16 SECTION 3. Section 24.0053, Property Code, is amended by  
17 amending Subsections (a-1) and (a-2) and adding Subsections (a-3)  
18 and (a-4) to read as follows:

19 (a-1) In an eviction suit for nonpayment of rent, if [If] a  
20 tenant files a pauper's affidavit in the period prescribed by  
21 Section 24.0052 or an appeal bond pursuant to the Texas Rules of  
22 Civil Procedure [to appeal an eviction for nonpayment of rent], the  
23 justice court shall provide to the tenant a written notice at the  
24 time the pauper's affidavit or appeal bond is filed that contains  
25 the following information in bold or conspicuous type:

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

1 registry;

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

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

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

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

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

17 (a-3) If a tenant files an appeal bond to appeal an eviction  
18 for nonpayment of rent, the tenant must, not later than the fifth  
19 day after the date the tenant filed the appeal bond, pay into the  
20 justice court registry the amount of rent to be paid in one rental  
21 pay period as determined by the court under Subsection (a). If the  
22 tenant fails to timely pay that amount into the justice court  
23 registry and the transcript has not yet been transmitted to the  
24 county court, the plaintiff may request a writ of possession. On  
25 request and payment of the applicable fee, the justice court shall  
26 issue the writ of possession immediately and without a hearing.  
27 Regardless of whether a writ of possession is issued, the justice

1 court shall transmit the transcript and appeal documents to the  
2 county court for trial de novo on issues relating to possession,  
3 rent, or attorney's fees.

4 (a-4) On sworn motion and hearing, the plaintiff in the  
5 eviction suit may withdraw money deposited in the court registry  
6 before the final determination in the case, dismissal of the  
7 appeal, or order of the court after final hearing. The county court  
8 shall give precedence to a hearing or motion under this subsection.

9 SECTION 4. The change in law made by this Act applies only  
10 to an eviction suit filed on or after the effective date of this  
11 Act. A suit filed before the effective date of this Act is governed  
12 by the law in effect immediately before the effective date of this  
13 Act, and that law is continued in effect for that purpose.

14 SECTION 5. This Act takes effect January 1, 2016.

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 1334 was passed by the House on April 16, 2015, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1334 on May 29, 2015, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 1334 was passed by the Senate, with amendments, on May 27, 2015, by the following vote: Yeas 31, Nays 0.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor