

By: Clardy

H.B. No. 1334

A BILL TO BE ENTITLED

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 Section 24.00521 to read as follows:

Sec. 24.00521. CONTEST OF TENANT APPEAL BOND. (a) If a tenant appeals a judgment of a justice court in a residential eviction suit by filing an appeal bond pursuant to the Texas Rules of Civil Procedure, the landlord may contest the bond because of the amount of the bond or the financial ability of a surety to pay the bond by filing a contest with the justice court. After the contest is filed, the justice court shall notify the tenant of the contest not later than the first working day after the date the contest is filed. Not later than the fifth day after the date the contest is filed, the justice court shall hear evidence and determine whether to approve or disapprove the amount of the bond or the surety. If the landlord contests the amount of the bond, the landlord has the burden to prove, by a preponderance of the evidence, that the amount of the bond is insufficient. If the landlord contests the financial ability of a surety to pay the bond, the tenant must prove, by a preponderance of the evidence, that the surety is financially sound. If the justice court determines that the amount of the bond is insufficient, the surety is not financially sound, or both, the justice court must disapprove the bond. If the tenant or the surety

1 fails to appear at the contest hearing, the failure to appear is
2 prima facie evidence that the bond should be disapproved.

3 (b) Not later than the fifth day after the date the justice
4 court disapproves an appeal bond, the tenant may appeal the
5 decision to the county court. On request, the justice court shall
6 certify to the county court the contest to the appeal bond and all
7 relevant documents. The county court shall hold a hearing not later
8 than the fifth day after the date the decision is appealed and shall
9 hear the contest de novo. A writ of possession may not be issued
10 before the county court issues a final decision on the appeal bond.

11 (c) After the contest is heard by the county court, the
12 clerk of the county court shall transmit the transcript and records
13 of the case to the justice court. If the county court disapproves
14 the appeal bond, the tenant may, not later than the fifth day after
15 the date the county court disapproves the appeal bond, perfect the
16 appeal of the judgment on the eviction suit by making a cash deposit
17 in an amount determined by the county court or by filing a sworn
18 statement of inability to pay with the justice court pursuant to the
19 Texas Rules of Civil Procedure. If a cash deposit in the required
20 amount is not timely made or a sworn statement of inability to pay
21 is not timely filed, a writ of possession may be issued.

22 SECTION 2. Section 24.0053, Property Code, is amended by
23 amending Subsections (a-1) and (a-2) and adding Subsections (a-3)
24 and (b-1) to read as follows:

25 (a-1) If a tenant files a pauper's affidavit in the period
26 prescribed by Section 24.0052 or an appeal bond pursuant to the
27 Texas Rules of Civil Procedure to appeal an eviction for nonpayment

1 of rent, the justice court shall provide to the tenant a written
2 notice at the time the pauper's affidavit or appeal bond is filed
3 that contains the following information in bold or conspicuous
4 type:

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

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

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

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

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

19 (a-2) The date by which an initial deposit must be paid into
20 the justice court registry under Subsection (a-1)(3) must be within
21 five days of the date the tenant files the pauper's affidavit or
22 appeal bond as required by the [~~Rule 749b(1)~~] Texas Rules of Civil
23 Procedure.

24 (a-3) If a tenant files an appeal bond in an eviction suit
25 for nonpayment of rent, in addition to the notice required by
26 Subsection (a-1), the justice court shall provide to the tenant a
27 written notice at the time the appeal bond is filed. The written

1 notice must contain the following information in bold or
2 conspicuous type:

3 (1) the amount of the costs on appeal from a judgment
4 of the justice court that the tenant must pay into the justice court
5 registry;

6 (2) whether the costs on appeal from the justice court
7 must be paid in cash, cashier's check, or money order, and to whom
8 the cashier's check or money order, if applicable, must be made
9 payable;

10 (3) the calendar date by which the costs of appeal must
11 be paid into the justice court registry;

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

14 (5) a statement that failure to pay the costs of appeal
15 into the justice court registry by the date prescribed by
16 Subdivision (3) may result in the court issuing a writ of possession
17 without hearing.

18 (b-1) If the tenant appeals the eviction suit by filing an
19 appeal bond pursuant to the Texas Rules of Civil Procedure and the
20 tenant fails to pay the initial deposit of rent under Subsection
21 (a-1) or the costs on appeal as required by the justice court under
22 Subsection (a-3), the appeal is not perfected and the justice court
23 on request shall immediately issue a writ of possession without
24 hearing.

25 SECTION 3. The change in law made by this Act applies only
26 to an eviction suit filed on or after the effective date of this
27 Act. A suit filed before the effective date of this Act is governed

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

3 SECTION 4. This Act takes effect January 1, 2016.