

By: Rodriguez of Travis

H.B. No. 3561

A BILL TO BE ENTITLED

AN ACT

relating to damages in certain wrongful eviction actions.

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

SECTION 1. Title 4, Property Code, is amended by adding Chapter 30 to read as follows:

CHAPTER 30. WRONGFUL EVICTION

Sec. 30.001. APPLICABILITY OF CHAPTER. This chapter applies to a claimant in a wrongful eviction action who establishes that:

(1) the claimant was wrongfully evicted from property occupied by the claimant under an unexpired written lease; and

(2) 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 Chapter 24.

Sec. 30.002. AVAILABILITY OF DAMAGES FOR MENTAL ANGUISH. A claimant to whom this chapter applies may 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:

(1) used or threatened violence to convince the claimant to vacate or abandon the property; or

(2) knowingly or recklessly destroyed or seized all or the majority of the claimant's property that was located on the

1 leased premises.

2 Sec. 30.003. EXEMPLARY DAMAGES. (a) An award of exemplary  
3 damages under this section is governed by Chapter 41, Civil  
4 Practice and Remedies Code, except that to the extent of any  
5 conflict between this section and that chapter, this section  
6 controls.

7 (b) Notwithstanding Section 41.003, Civil Practice and  
8 Remedies Code, a claimant entitled to recover damages for mental  
9 anguish under Section 30.002 may also recover exemplary damages if  
10 the claimant proves by a preponderance of the evidence that the  
11 wrongful eviction was pursued by the property owner solely for the  
12 purpose of putting the property to a more profitable use.

13 (c) For purposes of Subsection (b), there is a rebuttable  
14 presumption that a wrongful eviction was solely for the purpose of  
15 putting the property to a more profitable use if:

16 (1) the wrongful eviction occurred less than six  
17 months after the property owner acquired the property; and

18 (2) a structure occupied by the claimant was destroyed  
19 by the property owner on or before the 60th day after the date of the  
20 wrongful eviction.

21 (d) The trier of fact may award to a claimant to whom this  
22 section applies exemplary damages in an amount that does not exceed  
23 the greater of:

24 (1) the maximum amount of exemplary damages that may  
25 be awarded in the action under Section 41.008, Civil Practice and  
26 Remedies Code; or

27 (2) up to 25 percent of the fair market value of the

1 property from which the claimant was evicted, determined as of the  
2 time of the wrongful eviction.

3 (e) In determining the amount of exemplary damages to be  
4 awarded under this section, the trier of fact shall consider, in  
5 addition to evidence considered under Section 41.011, Civil  
6 Practice and Remedies Code, evidence, if any, relating to the  
7 amount of damages necessary to deter future wrongful evictions of a  
8 similar nature.

9 SECTION 2. The change in law made by this Act applies only  
10 to a wrongful eviction that occurs on or after the effective date of  
11 this Act.

12 SECTION 3. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2015.