

SENATE AMENDMENTS

2nd Printing

By: Clardy, Moody

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 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 APPEAL BOND. (a) 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 a written notice with the justice court contesting the appeal bond on or before the fifth day after the date the appeal bond is filed and serving a copy on the other party. After the notice is filed, the justice court shall

1 notify the other party and the surety of the contest.

2 (b) Not later than the fifth day after the date the contest
3 is filed, the justice court shall hold a hearing to hear evidence to
4 determine whether to approve or disapprove the amount or form of the
5 bond or the surety.

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

18 (d) Not later than the fifth day after the date the justice
19 court disapproves an appeal bond, the party appealing may make a
20 cash deposit, file a sworn statement of inability to pay with the
21 justice court, or appeal the decision disapproving the appeal bond
22 to the county court. If the party appealing fails to make a cash
23 deposit, file a sworn statement of inability to pay, or appeal the
24 decision disapproving the appeal bond, the judgment of the justice
25 court becomes final and a writ of possession and other processes to
26 enforce the judgment must be issued on the payment of the required
27 fee.

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

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

1 records of the case to the justice court, and the justice court
2 shall proceed as if the appeal bond was originally approved.

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

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

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

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

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

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

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

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

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

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

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

27 (a-4) On sworn motion and hearing, the plaintiff in the

1 eviction suit may withdraw money deposited in the court registry
2 before the final determination in the case, dismissal of the
3 appeal, or order of the court after final hearing. The county court
4 shall give precedence to a hearing or motion under this subsection.

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

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

ADOPTED

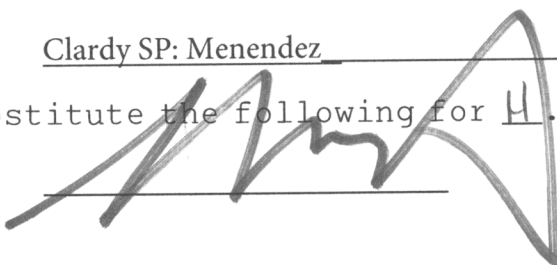
MAY 27 2015

Leta Stovall
Secretary of the Senate

By: Clardy SP: Menendez

H.B. No. 1334

Substitute the following for H.B. No. 1334:

By: 

C.S. H.B. No. 1334

A BILL TO BE ENTITLED

AN ACT

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2 relating to the appeal of a residential eviction suit.

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

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

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

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

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

21 (b) If a party appeals the judgment of a justice court in a
22 residential eviction suit for nonpayment of rent by filing an
23 appeal bond, the opposing party may contest the bond amount, form of
24 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.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 28, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1334 by Clardy (Relating to the appeal of a residential eviction suit.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Property Code to require a justice court state in a judgment the amount of an appeals bond in a residential eviction suit, a surety bond to include certain information, and if an appeal bond is filed, authorize the opposing party to contest the amount or form of the appeal bond or the financial ability of a surety to pay the bond. The bill would establish procedures for a justice court to determine the sufficiency of the bond or surety. If the court disapproves a bond, the tenant would be permitted to appeal the decision to a county court. The bill would clarify that notices given by the justice court to the tenant would apply to cases appealed on a bond and an affidavit. Under the provisions of the bill, a tenant who files an appeal bond to appeal a conviction for nonpayment of rent would be required to pay an amount determined by the court into the court registry.

The Office of Court Administration reported no significant fiscal impact to the state court system is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, AG, FR, SD, EK

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1334 by Clardy (Relating to the appeal of a residential eviction suit.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Property Code to require a justice court state in a judgment the amount of an appeals bond in a residential eviction suit, a surety bond to include certain information, and if an appeal bond is filed, authorize the opposing party to contest the amount or form of the appeal bond or the financial ability of a surety to pay the bond. The bill would establish procedures for a justice court to determine the sufficiency of the bond or surety. If the court disapproves a bond, the tenant would be permitted to appeal the decision to a county court. The bill would clarify that notices given by the justice court to the tenant would apply to cases appealed on a bond and an affidavit. Under the provisions of the bill, a tenant who files an appeal bond to appeal a conviction for nonpayment of rent would be required to pay an amount determined by the court into the court registry.

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Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, AG, FR, SD, EK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 5, 2015

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1334 by Clardy (Relating to the appeal of a residential eviction suit.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Property Code to require a justice court state in a judgment the amount of an appeals bond in a residential eviction suit, a surety bond to include certain information, and if an appeal bond is filed, authorize the opposing party to contest the amount or form of the appeal bond or the financial ability of a surety to pay the bond. The bill would establish procedures for a justice court to determine the sufficiency of the bond or surety. If the court disapproves a bond, the tenant would be permitted to appeal the decision to a county court. The bill would clarify that notices given by the justice court to the tenant would apply to cases appealed on a bond and an affidavit. Under the provisions of the bill, a tenant who files an appeal bond to appeal a conviction for nonpayment of rent would be required to pay an amount determined by the court into the court registry.

The Office of Court Administration reported no significant fiscal impact to the state court system is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, AG, FR, SD, EK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 2, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1334 by Clardy (Relating to the appeal of a residential eviction suit.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Property Code to require a justice court state in a judgment the amount of an appeals bond in a residential eviction suit, a surety bond to include certain information, and if an appeal bond is filed, authorize the opposing party to contest the amount or form of the appeal bond or the financial ability of a surety to pay the bond. The bill would establish procedures for a justice court to determine the sufficiency of the bond or surety. If the court disapproves a bond, the tenant would be permitted to appeal the decision to a county court. The bill would clarify that notices given by the justice court to the tenant would apply to cases appealed on a bond and an affidavit. Under the provisions of the bill, a tenant who files an appeal bond to appeal a conviction for nonpayment of rent would be required to pay an amount determined by the court into the court registry.

The Office of Court Administration reported no significant fiscal impact to the state court system is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, FR, SD, EK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 16, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1334 by Clardy (Relating to the appeal of a residential eviction suit.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Property Code to permit a landlord to contest the sufficiency of an appeal bond or the financial ability of a surety to pay the bond in a justice court. The tenant could appeal the justice court decision to a county court. The bill would require a justice court to provide two written notices to the tenant at the time an appeal bond is filed.

The Office of Court Administration reported no significant fiscal impact to the state court system is anticipated.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, FR, SD, EK