

**House Bill 1334**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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 notify the other party and the surety of the contest.

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

(c) If a party contests the amount or form of the bond, the

SENATE VERSION (CS)

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 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 notify the other party and the surety of the contest.

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

(d) If a party contests the amount or form of the bond, the

CONFERENCE

**House Bill 1334**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

contesting party has the burden to prove, by a preponderance of the evidence, that the amount or form of the bond, as applicable, is insufficient. If a party contests the financial ability of a surety to pay the bond, the party filing the bond must prove, by a preponderance of the evidence, that the surety has sufficient nonexempt assets to pay the appeal bond. If the justice court determines that the amount or form of the bond is insufficient or the surety does not have sufficient nonexempt assets to pay the appeal bond, the justice court must disapprove the bond. If the surety fails to appear at the contest hearing, the failure to appear is prima facie evidence that the bond should be disapproved.

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

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

SENATE VERSION (CS)

contesting party has the burden to prove, by a preponderance of the evidence, that the amount or form of the bond, as applicable, is insufficient. If a party contests the financial ability of a surety to pay the bond, the party filing the bond must prove, by a preponderance of the evidence, that the surety has sufficient nonexempt assets to pay the appeal bond. If the justice court determines that the amount or form of the bond is insufficient or the surety does not have sufficient nonexempt assets to pay the appeal bond, the justice court must disapprove the bond. If the surety fails to appear at the contest hearing, the failure to appear is prima facie evidence that the bond should be disapproved.

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

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

CONFERENCE

**House Bill 1334**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

(f) After the contest is heard by the county court, the county clerk shall transmit the transcript and records of the case to the justice court. If the county court disapproves the appeal bond, the party may, not later than the fifth day after the date the court disapproves the appeal bond, perfect the appeal of the judgment on the eviction suit by making a cash deposit in the justice court in an amount determined by the county court or by filing a sworn statement of inability to pay with the justice court pursuant to the Texas Rules of Civil Procedure. If the tenant is the appealing party and a cash deposit in the required amount is not timely made or a sworn statement of inability to pay is not timely filed, the judgment of the justice court becomes final and a writ of possession and other processes to enforce the judgment must be issued on the payment of the required fee. If the landlord is the appealing party and a cash deposit is not timely made or a sworn statement of inability to pay is not timely filed, the judgment of the justice court becomes final. If the appeal bond is approved by the county court, the court shall transmit the transcript and other records of the case to the justice court, and the justice court shall proceed as if the appeal bond was originally approved.

SECTION 2. Chapter 24, Property Code, is amended by adding Section 24.00521 to read as follows:  
Sec. 24.00521. CONTEST OF APPEAL BOND IN COUNTY COURT. A contest under Section 24.00512 does not preclude a party from contesting the appeal bond in the county court after the county court has jurisdiction over the eviction suit. After the county court has jurisdiction over the eviction suit, the county court may modify the amount or form of the bond and determine the sufficiency of the surety.

SENATE VERSION (CS)

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

SECTION 2. Chapter 24, Property Code, is amended by adding Section 24.00521 to read as follows:  
Sec. 24.00521. CONTEST OF CERTAIN APPEAL BONDS IN COUNTY COURT. A contest under Section 24.00512 does not preclude a party from contesting the appeal bond in the county court after the county court has jurisdiction over the eviction suit. After the county court has jurisdiction over the eviction suit, the county court may modify the amount or form of the bond and determine the sufficiency of the surety.

CONFERENCE

**House Bill 1334**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

- (1) the amount of the initial deposit of rent stated in the judgment that the tenant must pay into the justice court registry;
- (2) whether the initial deposit must be paid in cash, cashier's check, or money order, and to whom the cashier's check or money order, if applicable, must be made payable;
- (3) the calendar date by which the initial deposit must be paid into the justice court registry;
- (4) for a court that closes before 5 p.m. on the date specified by Subdivision (3), the time the court closes; and
- (5) a statement that failure to pay the required amount into the justice court registry by the date prescribed by Subdivision (3) may result in the court issuing a writ of possession without a hearing.

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

(a-3) If a tenant files an appeal bond to appeal an eviction for nonpayment of rent, the tenant must, not later than the fifth

SENATE VERSION (CS)

SECTION 3. Same as House version.

CONFERENCE

**House Bill 1334**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

day after the date the tenant filed the appeal bond, pay into the justice court registry the amount of rent to be paid in one rental pay period as determined by the court under Subsection (a). If the tenant fails to timely pay that amount into the justice court registry and the transcript has not yet been transmitted to the county court, the plaintiff may request a writ of possession. On request and payment of the applicable fee, the justice court shall issue the writ of possession immediately and without a hearing. Regardless of whether a writ of possession is issued, the justice court shall transmit the transcript and appeal documents to the county court for trial de novo on issues relating to possession, rent, or attorney's fees.

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

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

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

SENATE VERSION (CS)

SECTION 4. Same as House version.

SECTION 5. Same as House version.

CONFERENCE