

By: Canales

H.B. No. 1097

A BILL TO BE ENTITLED

AN ACT

relating to the expunction of records in residential eviction suits.

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

SECTION 1. Chapter 24, Property Code, is amended by adding Section 24.012 to read as follows:

Sec. 24.012. EXPUNCTION OF RECORDS IN RESIDENTIAL EVICTION SUITS. (a) A court has jurisdiction to order the expunction of records related to a residential eviction suit if the suit was filed originally or on appeal with the court. The court may, on oral or written motion of the tenant in the suit, order all records related to the suit in the possession or under the control of the court or other person be expunged if the court finds that:

(1) the suit is or was without sufficient basis in fact or law, including a lack of jurisdiction over the case;

(2) the expunction is in the interest of justice; and

(3) the interest of justice is not outweighed by the public's interest in the records.

(b) If the motion for expunction is made at trial, the justice court may, concurrently with a decision in the suit, order records expunged under this section. An order issued under this subsection takes effect on the expiration of the time for filing an appeal of the decision. On appeal of the suit to county court, an order issued under this subsection is void.

1        (c) A person may not publish and shall destroy a record that  
2 is in the person's possession or under the person's control if the  
3 person knows that an order of expunction of the record has been  
4 issued under this section.

5        (d) A person who knowingly violates Subsection (c) is liable  
6 to an injured party for:

7                (1) actual damages;

8                (2) exemplary damages of \$1,000; and

9                (3) reasonable attorney's fees and court costs.

10        (e) Notwithstanding Section 41.004(a), Civil Practice and  
11 Remedies Code, a court shall award exemplary damages under  
12 Subsection (d)(2) to the injured party irrespective of whether the  
13 party is awarded actual damages.

14        (f) The supreme court shall adopt rules necessary to  
15 implement this section.

16        SECTION 2. Not later than January 1, 2018, the Texas Supreme  
17 Court shall adopt the rules necessary to implement Section 24.012,  
18 Property Code, as added by this Act.

19        SECTION 3. Section 24.012, Property Code, as added by this  
20 Act, applies to a motion made on or after January 1, 2018, with  
21 respect to a residential eviction suit that commences before, on,  
22 or after January 1, 2018.

23        SECTION 4. This Act takes effect September 1, 2017.