87R16484 DRS-D

By:  Walle, Crockett H.B. No. 1647

Substitute the following for H.B. No. 1647:

By:  Ordaz Perez C.S.H.B. No. 1647

A BILL TO BE ENTITLED

AN ACT

relating to the confidentiality of eviction case information for evictions related to the COVID-19 pandemic.

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

SECTION 1.  Chapter 24, Property Code, is amended by adding Sections 24.012 and 24.013 to read as follows:

Sec. 24.012.  ACCESS TO EVICTION CASE INFORMATION FOR EVICTIONS RELATED TO COVID-19 PANDEMIC. (a) In this section:

(1)  "Eviction case" means a lawsuit brought under this chapter to recover possession of leased or rented residential real property from a tenant.

(2)  "Eviction case information" means all records and files related to a filing of an eviction case, including petitions and dispositions.

(b)  This section applies only to an eviction case:

(1)  brought under this chapter for nonpayment of rent:

(A)  during a state of disaster declared by the governor under Section 418.014, Government Code, related to the coronavirus disease (COVID-19) pandemic;

(B)  before the 180th day after the date of termination of that state of disaster; or

(C)  against a defendant who files with the court a statement that the defendant's nonpayment of rent was due to financial hardship caused by the pandemic; and

(2)  in which an order making the eviction case information confidential has not been entered under Section 24.013.

(c)  The court clerk shall allow access to eviction case information only:

(1)  to a party to the action, including a party's attorney; or

(2)  to any person if a final, nonappealable judgment in the case was entered for the plaintiff.

(d)  Except to the extent permitted by federal law, a credit reporting agency, a person who regularly collects and disseminates eviction case information, or a person who sells eviction case information may only use eviction case information if access is permitted under Subsection (c)(2).

(e)  This section may not be construed to prohibit the court from issuing an order that bars access to eviction case information if the parties to the case so stipulate.

(f)  This section does not apply to an eviction case based on actions of the tenant that create an imminent threat to the health or safety of the landlord, a member of the landlord's or tenant's household, other tenants, or neighbors.

Sec. 24.013.  CONFIDENTIAL EVICTION CASE INFORMATION FOR EVICTIONS RELATED TO COVID-19 PANDEMIC. (a) In this section, "eviction case" and "eviction case information" have the meanings assigned by Section 24.012.

(b)  This section applies only to an eviction case to which Section 24.012 applies.

(c)  Concurrently with a final judgment or dismissal in an eviction case or on petition of a defendant in an eviction case after a final judgment or dismissal in the case, a court shall enter an order making the eviction case information pertaining to the defendant confidential if:

(1)  the judgment is or was entered in favor of the defendant;

(2)  the eviction case is or was dismissed without any relief granted to the plaintiff;

(3)  the defendant is or was a tenant not otherwise in default and the eviction case was brought by the landlord's successor in interest following foreclosure; or

(4)  at least three years have elapsed from the date of the final judgment in the eviction case.

(d)  Concurrently with a final judgment or dismissal in an eviction case or on petition of a defendant in an eviction case after a final judgment or dismissal in the case, a court may enter an order making the eviction case information pertaining to the defendant confidential if the court finds that:

(1)  it is in the interest of justice; and

(2)  the interest of justice is not outweighed by the public's interest in knowing the eviction case information.

(e)  If an order is entered making the eviction case information pertaining to a defendant confidential under this section:

(1)  all courts or court clerks shall delete or redact all index references to the name of the defendant that relate to the eviction case information from the public records; and

(2)  except to the extent permitted by federal law, a credit reporting agency, a person who regularly collects and disseminates eviction case information, or a person who sells eviction case information may not:

(A)  disclose the existence of the eviction case; or

(B)  use the eviction case information as a factor in determining a score or recommendation in a tenant screening report regarding the defendant.

(f)  A person who knowingly violates Subsection (e)(2) is liable to an injured party for:

(1)  actual damages;

(2)  exemplary damages of $1,000; and

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

(g)  Notwithstanding Section 41.004(a), Civil Practice and Remedies Code, a court shall award exemplary damages under Subsection (f)(2) to the injured party irrespective of whether the party is awarded actual damages.

(h)  The supreme court shall adopt rules necessary to implement this section.

SECTION 2.  Not later than January 1, 2022, the Texas Supreme Court shall adopt the rules necessary to implement Sections 24.012 and 24.013, Property Code, as added by this Act.

SECTION 3.  This Act takes effect January 1, 2022.