

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

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

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

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

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

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

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

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

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

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

27 (c) Concurrently with a final judgment or dismissal in an

1 eviction case or on petition of a defendant in an eviction case
2 after a final judgment or dismissal in the case, a court shall enter
3 an order making the eviction case information pertaining to the
4 defendant confidential if:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (1) actual damages;

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

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

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

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

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

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