

BILL ANALYSIS

C.S.S.B. 1333

By: Hughes

Trade, Workforce & Economic Development
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill sponsor has informed the committee that there is a need for clarity in the law to assist law enforcement in addressing squatter issues. Furthermore, the bill sponsor has also informed the committee that property owners dealing with squatters can be severely financially impacted, since squatters often damage and rarely maintain the property. C.S.S.B. 1333 seeks to strengthen property owner rights through clear criminal and civil processes and remedies.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Removal of Certain Unauthorized Occupants of Real Property

C.S.S.B. 1333 amends the Property Code to authorize an owner of residential real property or the owner's agent to request that the sheriff or constable of the county in which the property is located immediately remove a person who unlawfully entered and is occupying a dwelling on the property without the owner's consent under the following conditions:

- the property was not open to the public when the person entered the property and is not the subject of pending litigation between the owner and the person;
- the owner or the owner's agent has directed the person to leave the property and the person has not done so; and
- the person is not a current or former tenant of the owner under an oral or written lease or an immediate family member of the owner.

C.S.S.B. 1333 provides for the removal of a person occupying a dwelling without the owner's consent as follows:

- authorizes a property owner or the owner's agent to request the removal of such a person by submitting a complaint to the sheriff or constable of the county in which the property is located;
- prescribes the written form of the complaint;
- requires the complaint to be made under oath or made as an unsworn declaration in lieu of an oath;

- requires a sheriff or constable who receives the complaint to verify that the complainant is the record owner of the property that is the subject of the complaint or the owner's agent and otherwise entitled to the relief sought in the complaint; and
- requires the sheriff or constable, on verifying the complaint, without delay to serve notice to immediately vacate on the person occupying the dwelling without the owner's consent and put the owner in possession of the dwelling.

C.S.S.B. 1333 authorizes a service of notice to immediately vacate to be accomplished by hand delivery to an occupant of the dwelling or by affixing the notice to the front door or entrance of the dwelling. The bill does the following with regard to a sheriff or constable serving such a notice:

- requires the sheriff or constable to attempt to verify the identity of each person occupying the dwelling and note each identity on the return of service;
- authorizes the sheriff or constable to arrest any person found in the dwelling for an outstanding warrant or for trespass or any other offense for which probable cause exists; and
- entitles the sheriff or constable to receive from the complainant a fee in an amount equal to the amount the sheriff or constable would receive for executing a writ of possession.

The bill authorizes the property owner or owner's agent to request that the sheriff or constable remain on the property to keep the peace after the service of notice to immediately vacate by the sheriff or constable while the owner or owner's agent changes any locks and removes any personal property of an occupant from the dwelling and places the personal property at or near the property line of the owner's property. If such a request is made, the sheriff or constable may charge the person making the request a reasonable hourly rate set by the sheriff or constable for remaining on the property.

C.S.S.B. 1333 does the following with respect to the removal of an unauthorized occupant under the bill's provisions:

- exempts a sheriff or constable from liability to such an occupant or any other person for loss or destruction of or damage to property resulting from the removal of a person or property under the bill's provisions; and
- exempts a property owner or the owner's agent from liability to any person for loss or destruction of or damage to personal property resulting from the removal of the personal property from the owner's property.

The bill authorizes a person who is wrongfully removed or whose personal property is wrongfully removed from a dwelling or other real property under the bill's provisions to bring an action to recover possession of the real property and to recover the following from the person who requested the wrongful removal:

- actual damages;
- exemplary damages equal to three times the fair market rent of the dwelling;
- court costs; and
- reasonable attorney's fees.

The bill requires a court to set such an action for hearing at the earliest practicable date to expedite the action.

C.S.S.B. 1333 expressly does not limit the rights of a property owner or the authority of a law enforcement officer to arrest an unauthorized occupant of a dwelling for trespassing, vandalism, theft, or another offense.

Property Damage Occurring During Criminal Trespass

C.S.S.B. 1333 amends the Penal Code to set the penalty for a criminal mischief offense that involves damaging or destroying a habitation while in the course of committing criminal trespass and that results in a pecuniary loss of \$1,000 or more but less than \$300,000 as a second degree

felony, thereby increasing the penalty for an offense involving such conduct that results in a pecuniary loss of more than \$1,000 but less than \$2,500.

C.S.S.B. 1333 establishes that this provision applies only to an offense committed on or after the bill's effective date. An offense committed before the bill's effective date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For these purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date.

Deceptive Practices Regarding Real Property

C.S.S.B. 1333 creates the following offenses:

- the Class A misdemeanor offense of presenting a false, fraudulent, or fictitious document conveying real property interest for a person who knowingly presents to another person a false, fraudulent, or fictitious document purporting to be a lease agreement, deed, or other instrument conveying real property or an interest in real property with intent to enter or remain on real property; and
- the first degree felony offense of the fraudulent sale, rental, or lease of residential real property for a person who knowingly does the following:
 - lists or advertises for sale, rent, or lease residential real property while knowing that the person offering to sell, rent, or lease the property does not have legal title or authority to sell, rent, or lease the property; or
 - sells, rents, or leases to another person residential real property to which the person does not have legal title or authority to sell, rent, or lease.

If conduct that constitutes either of these offenses also constitutes an offense under another law, the actor may be prosecuted under the bill's provisions, the other law, or both. The bill excepts from the application of the fraudulent sale, rental, or lease of residential real property offense in which the person knowingly sells, rents, or leases to another person residential real property to which the person does not have legal title or authority to sell, rent, or lease a person who participated in the transaction to sell, rent, or lease the property, as follows:

- as a lender, a title company, or a broker or agent licensed under The Real Estate License Act or an employee or agent of a lender, a title company, or a broker or agent licensed under that act; and
- did not know that another person involved in the transaction did not have legal title or authority to sell, rent, or lease the property.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1333 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes a provision absent from the engrossed excepting from the application of the fraudulent sale, rental, or lease of residential real property offense in which the person knowingly sells, rents, or leases to another person residential real property to which the person does not have legal title or authority to sell, rent, or lease a person who participated in the transaction to sell, rent, or lease the property, as follows:

- as a lender, a title company, or a broker or agent licensed under The Real Estate License Act or an employee or agent of a lender, a title company, or a broker or agent licensed under that act; and
- did not know that another person involved in the transaction did not have legal title or authority to sell, rent, or lease the property.