

By: Troxclair

H.B. No. 4223

A BILL TO BE ENTITLED

AN ACT

relating to the unauthorized entry, occupancy, sale, rental, lease, advertisement for sale, rental, or lease, or conveyance of real property, including the removal of certain unauthorized occupants of a dwelling; creating criminal offenses; increasing a criminal penalty; authorizing a fee.

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

SECTION 1. Section 28.03(b), Penal Code, is amended to read as follows:

(b) Except as provided by Subsections (f) and (h), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$100; or

(B) except as provided in Subdivision (3)(A) or (3)(B), it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is \$100 or more but less than \$750;

(3) a Class A misdemeanor if:

(A) the amount of pecuniary loss is \$750 or more but less than \$2,500; or

(B) the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including

1 installation or removal of any device for any such purpose, any
2 public water supply, regardless of the amount of the pecuniary
3 loss;

4 (4) a state jail felony if the amount of pecuniary loss
5 is:

6 (A) \$2,500 or more but less than \$30,000;

7 (B) except as provided in Subdivision (6)(B),
8 less than \$2,500, if the property damaged or destroyed is a
9 habitation and if the damage or destruction is caused by a firearm
10 or explosive weapon;

11 (C) less than \$2,500, if the property was a fence
12 used for the production or containment of:

13 (i) cattle, bison, horses, sheep, swine,
14 goats, exotic livestock, or exotic poultry; or

15 (ii) game animals as that term is defined by
16 Section 63.001, Parks and Wildlife Code;

17 (D) less than \$30,000 and the actor:

18 (i) causes wholly or partly impairment or
19 interruption of property used for flood control purposes or a dam or
20 of public communications, public transportation, public gas
21 supply, or other public service; or

22 (ii) causes to be diverted wholly, partly,
23 or in any manner, including installation or removal of any device
24 for any such purpose, any public communications or public gas
25 supply; or

26 (E) less than \$30,000, if the property is a motor
27 vehicle that is damaged, destroyed, or tampered with during the

1 removal or attempted removal of a catalytic converter from the
2 motor vehicle;

3 (5) a felony of the third degree if:

4 (A) the amount of the pecuniary loss is \$30,000
5 or more but less than \$150,000;

6 (B) the actor, by discharging a firearm or other
7 weapon or by any other means, causes the death of one or more head of
8 cattle or bison or one or more horses;

9 (C) the actor causes wholly or partly impairment
10 or interruption of access to an automated teller machine,
11 regardless of the amount of the pecuniary loss; or

12 (D) the amount of pecuniary loss is less than
13 \$150,000 and the actor:

14 (i) causes wholly or partly impairment or
15 interruption of property used for public power supply; or

16 (ii) causes to be diverted wholly, partly,
17 or in any manner, including installation or removal of any device
18 for any such purpose, any public power supply;

19 (6) a felony of the second degree if the amount of
20 pecuniary loss is:

21 (A) \$150,000 or more but less than \$300,000; or

22 (B) \$1,000 or more but less than \$300,000, if:

23 (i) the property damaged or destroyed is a
24 habitation; and

25 (ii) it is shown on the trial of the offense
26 that the actor committed the offense in the course of committing an
27 offense under Section 30.05; or

(7) a felony of the first degree if the amount of pecuniary loss is \$300,000 or more.

SECTION 2. Subchapter D, Chapter 32, Penal Code, is amended by adding Sections 32.56 and 32.57 to read as follows:

Sec. 32.56. FALSE, FRAUDULENT, OR FICTITIOUS DOCUMENT CONVEYING REAL PROPERTY INTEREST. (a) A person commits an offense if, with intent to enter or remain on real property, the person 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.

(b) An offense under this section is a Class A misdemeanor.

(c) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law, but not both.

Sec. 32.57. FRAUDULENT SALE, RENTAL, OR LEASE OF RESIDENTIAL REAL PROPERTY. (a) A person commits an offense if the person knowingly:

(1) 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

(2) 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.

(b) An offense under this section is a state jail felony.

(c) If conduct that constitutes an offense under this

section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law, but not both.

SECTION 3. Title 4, Property Code, is amended by adding Chapter 24B to read as follows:

CHAPTER 24B. REMOVAL OF CERTAIN UNAUTHORIZED OCCUPANTS OF REAL PROPERTY

Sec. 24B.001. RIGHT TO REQUEST REMOVAL OF UNAUTHORIZED OCCUPANT OF DWELLING BY SHERIFF. Notwithstanding any other law, an owner of residential real property or the owner's agent may request that the sheriff 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 if:

(1) the property:

(A) was not open to the public when the person entered the property; and

(B) is not the subject of pending litigation between the owner and the person;

(2) the owner or the owner's agent has directed the person to leave the property and the person has not done so; and

(3) the person is not:

(A) a current or former tenant of the owner under an oral or written lease; or

(B) an immediate family member of the owner.

Sec. 24B.002. COMPLAINT TO REQUEST REMOVAL OF UNAUTHORIZED OCCUPANT. (a) A property owner or the owner's agent may request the removal of a person under Section 24B.001 by submitting to the sheriff of the county in which the property is located a complaint

1 in substantially the following form that complies with Subsection
2 (b):

3 COMPLAINT TO REMOVE PERSON OCCUPYING DWELLING

4 WITHOUT OWNER'S CONSENT

5 I, _____ (name of complainant), declare under the penalty of
6 perjury that:

7 (Complete each item as applicable and initial each item.)

8 ____ 1. I am the owner of residential real property
9 located at _____ (property address) or the agent of the owner.

10 ____ 2. A person unlawfully entered and occupies a
11 dwelling on the property without the owner's consent.

12 ____ 3. The property was not open to the public when the
13 person entered the property.

14 ____ 4. The property is not the subject of pending
15 litigation between the owner and the person.

16 ____ 5. The owner or the owner's agent has directed the
17 person to leave the property and the person has not done so.

18 ____ 6. The person is not a current or former tenant of
19 the owner under an oral or written lease and any lease produced by
20 the person is fraudulent.

21 ____ 7. The person is not an owner or co-owner of the
22 property and any title to the property that lists the person as an
23 owner or co-owner is fraudulent.

24 ____ 8. The person is not an immediate family member of
25 the owner.

26 ____ 9. I understand that a person removed from the
27 property as a result of this complaint may bring an action against

1 me for any false statement made in the complaint or for wrongfully
2 submitting the complaint.

3 10. I understand that I may be held liable for
4 actual damages, exemplary damages, court costs, and reasonable
5 attorney's fees in an action described by Item 9.

6 11. I am requesting that the sheriff immediately
7 remove each person occupying the dwelling without the owner's
8 consent.

9 12. A copy of my valid government-issued
10 identification is attached and, if I am the owner's agent, a
11 document evidencing my authority to act on the property owner's
12 behalf is attached.

13 I HAVE READ EACH STATEMENT IN THIS COMPLAINT AND CONFIRM EACH
14 STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT A STATEMENT MADE
15 IN THIS COMPLAINT IS MADE UNDER PENALTY OF PERJURY, PUNISHABLE
16 UNDER SECTION 37.02, PENAL CODE.

17 (signature of complainant)
18 (b) A complaint submitted under this section must be made
19 under oath or made as an unsworn declaration under Section 132.001,
20 Civil Practice and Remedies Code.

21 Sec. 24B.003. VERIFICATION OF COMPLAINT; SERVICE OF NOTICE
22 TO IMMEDIATELY VACATE. (a) A sheriff who receives a complaint
23 under Section 24B.002 shall verify that the complainant is:

24 (1) the record owner of the property that is the
25 subject of the complaint or the owner's agent; and

26 (2) otherwise entitled to the relief sought in the
27 complaint.

1 (b) On verifying the complaint under Subsection (a), the
2 sheriff shall without delay:

3 (1) serve notice to immediately vacate on the person
4 occupying the dwelling without the owner's consent; and

5 (2) put the owner in possession of the dwelling.

6 (c) Service of notice to immediately vacate may be
7 accomplished by:

8 (1) hand delivery to an occupant of the dwelling; or

9 (2) affixing the notice to the front door or entrance
10 of the dwelling.

11 (d) A sheriff serving notice to immediately vacate under
12 this section shall attempt to verify the identity of each person
13 occupying the dwelling and note each identity on the return of
14 service.

15 (e) A sheriff serving notice to immediately vacate under
16 this section may arrest any person found in the dwelling for an
17 outstanding warrant or for trespass or any other offense for which
18 probable cause exists.

19 (f) A sheriff who serves a notice to immediately vacate
20 under this section is entitled to receive from the complainant a fee
21 in an amount equal to the amount the sheriff would receive for
22 executing a writ of possession.

23 (g) After the service of notice to immediately vacate by the
24 sheriff under Subsection (b), the property owner or owner's agent
25 may request that the sheriff remain on the property to keep the
26 peace while the owner or owner's agent:

27 (1) changes any locks; and

1 (2) removes any personal property of an occupant from
2 the dwelling and places the personal property at or near the
3 property line of the owner's property.

4 (h) If a request described by Subsection (g) is made, the
5 sheriff may charge the person making the request a reasonable
6 hourly rate set by the sheriff for remaining on the property.

7 Sec. 24B.004. LIABILITY. (a) A sheriff is not liable to an
8 unauthorized occupant or any other person for loss or destruction
9 of or damage to property resulting from the removal of a person or
10 property under this chapter.

11 (b) Subject to Section 24B.005, a property owner or the
12 owner's agent is not liable to any person for loss or destruction of
13 or damage to personal property resulting from the removal of the
14 personal property from the owner's property under this chapter.

15 Sec. 24B.005. ACTION FOR WRONGFUL REMOVAL. (a) A person
16 who is wrongfully removed, or whose personal property is wrongfully
17 removed, from a dwelling or other real property under this chapter
18 may bring an action under this section to:

19 (1) recover possession of the real property; and
20 (2) recover from the person who requested the wrongful
21 removal:

22 (A) actual damages;
23 (B) exemplary damages equal to three times the
24 fair market rent of the dwelling;
25 (C) court costs; and
26 (D) reasonable attorney's fees.

27 (b) The court shall set an action brought under this section

1 for hearing at the earliest practicable date to expedite the
2 action.

3 Sec. 24B.006. NONEXCLUSIVITY. This chapter does not limit:

4 (1) the rights of a property owner; or

5 (2) the authority of a law enforcement officer to
6 arrest an unauthorized occupant of a dwelling for trespassing,
7 vandalism, theft, or another offense.

8 SECTION 4. Section 28.03, Penal Code, as amended by this
9 Act, applies only to an offense committed on or after the effective
10 date of this Act. An offense committed before the effective date of
11 this Act is governed by the law in effect on the date the offense was
12 committed, and the former law is continued in effect for that
13 purpose. For purposes of this section, an offense was committed
14 before the effective date of this Act if any element of the offense
15 occurred before that date.

16 SECTION 5. This Act takes effect September 1, 2025.