

By: Bettencourt, et al.

S.B. No. 38

A BILL TO BE ENTITLED

AN ACT

relating to the eviction from real property of certain persons not entitled to enter, occupy, or remain in possession of the premises.

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

SECTION 1. Section 24.004, Property Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsection (b), a justice court in the precinct in which the real property is located or to which the suit is transferred under Section 24.0041 has jurisdiction in an eviction suit ~~[suits]~~. Eviction suits include forcible entry and detainer and forcible detainer suits. A justice court has jurisdiction to issue a writ of possession under this chapter ~~[Sections 24.0054(a), (a-2), and (a-3)]~~.

(c) A justice court in which a petition is filed under Section 24.00505 must adjudicate the right to actual possession of the premises. The justice court may not adjudicate title to the premises. Counterclaims and the joinder of suits against third parties are not permitted in eviction suits. This subsection does not preclude a claim that may not be asserted under this subsection from being brought in a separate suit in a court of proper jurisdiction.

SECTION 2. Chapter 24, Property Code, is amended by adding Sections 24.0041, 24.0042, and 24.0043 to read as follows:

1 Sec. 24.0041. VENUE. (a) An eviction suit must be brought
2 in the justice precinct in which the real property is located. On
3 the motion of the plaintiff, the justice court shall transfer the
4 eviction suit to a justice court in an adjacent precinct in the
5 county in which the real property is located if:

6 (1) the sheriff or constable is unable to serve the
7 citation on the defendant on or before the fifth business day after
8 the date the petition is filed;

9 (2) the justice court is unable to conduct the trial of
10 the eviction suit on or before the 21st day after the date the
11 petition is filed; or

12 (3) any other sufficient cause exists, as determined
13 by the justice court.

14 (b) If the justice court finds sufficient cause for a change
15 in venue under this section, the eviction suit must be transferred
16 to the justice court identified by the plaintiff in the plaintiff's
17 motion. On granting the motion, the justice court shall
18 immediately forward the transcript and original papers in the case,
19 by electronic means or otherwise, to the clerk of the justice court
20 to which the suit is transferred.

21 (c) On a transfer of an eviction suit under this section,
22 the justice court to which the suit is transferred may not require
23 the plaintiff to pay:

24 (1) any additional filing fees; or

25 (2) an additional service fee, unless additional
26 service is required.

27 Sec. 24.0042. COMPUTATION OF TIME. A period of time

prescribed by this chapter:

(1) does not include the day of the event that begins the period;

(2) includes Saturdays, Sundays, and state or federal holidays;

(3) includes the last day of the period; and

(4) if the last day of the period is a Saturday, Sunday, or state or federal holiday, is extended so that the last day of the period is the next day that is not a Saturday, Sunday, or state or federal holiday.

Sec. 24.0043. AUTHORITY TO MODIFY OR SUSPEND EVICTION PROCEDURES. (a) Except as provided by Subsection (b) but notwithstanding any other law, including Section 22.004, Government Code, only the legislature may modify or suspend procedures prescribed by this chapter.

(b) This section does not affect the authority of the supreme court to modify or suspend certain provisions for the conduct of any court proceedings affected by a disaster under Section 22.0035(b), Government Code, but such a modification or suspension may be applied to an eviction suit only if:

(1) the modification or suspension is applicable to all courts similarly affected by the disaster without regard to the subject matter of an action; and

(2) any request for the modification or suspension is made in writing and available to the public.

SECTION 3. The heading to Section 24.005, Property Code, is amended to read as follows:

1 Sec. 24.005. NOTICE REQUIRED BEFORE [~~TO VACATE PRIOR TO~~]
2 FILING CERTAIN EVICTION SUITS [~~SUIT~~].

3 SECTION 4. Section 24.005, Property Code, is amended by
4 amending Subsections (a) and (e) and adding Subsections (c-1),
5 (f-3), and (f-4) to read as follows:

6 (a) If the occupant is a tenant under a written lease or oral
7 rental agreement, the landlord must give a tenant who defaults or
8 holds over beyond the end of the rental term or renewal period at
9 least three days' written notice to vacate the premises before the
10 landlord files a forcible detainer suit, unless the parties have
11 contracted for a shorter or longer notice period in a written lease
12 or agreement. In a forcible detainer suit against a tenant whose
13 right of possession is terminated based on nonpayment of rent,
14 written notice under this section shall be given in the form of
15 either a notice to pay rent or vacate or a notice to vacate. A
16 landlord who files a forcible detainer suit on grounds that the
17 tenant is holding over beyond the end of the rental term or renewal
18 period must also comply with the tenancy termination requirements
19 of Section 91.001.

20 (c-1) If a federal law or rule requires a landlord to give
21 notice to a tenant before the landlord requires the tenant to vacate
22 the premises:

23 (1) a landlord that satisfies the notice requirements
24 of this section is not required to delay the filing of an eviction
25 suit based on the federal requirement;

26 (2) the federal requirement is not a basis for a court
27 to delay or abate the conduct of the eviction suit; and

1 (3) a writ of possession may not be served on the
2 tenant until the period between the delivery of the notice under
3 this section and the service of the writ equals or exceeds the
4 period prescribed by the federal requirement.

5 (e) If the lease or applicable state or federal law or rule
6 requires a [the] landlord to give a tenant an opportunity to respond
7 to a notice of proposed eviction before filing an eviction suit:

8 (1) the notice period in a notice to pay rent or vacate
9 or[, a] notice to vacate under Subsection (a) may, at the landlord's
10 discretion, run concurrently with [not be given until] the period
11 provided for the tenant to respond to the notice of proposed
12 eviction; and

13 (2) the notice to pay rent or vacate or notice to
14 vacate may include the required opportunity to respond to the
15 notice of proposed eviction [notice has expired].

16 (f-3) A notice required by this section must be delivered
17 using at least one of the following methods:

18 (1) mail, including first class mail, registered mail,
19 certified mail, or a delivery service;

20 (2) delivery to the inside of the premises;

21 (3) hand delivery to any tenant of the premises; or

22 (4) if the parties have agreed in writing, electronic
23 communication, including e-mail or other electronic means.

24 (f-4) Subsection (f-3) does not apply if the tenant actually
25 receives the notice.

26 SECTION 5. Chapter [24](#), Property Code, is amended by adding
27 Sections 24.00505 and 24.00506 to read as follows:

1 Sec. 24.00505. PETITION. To initiate an eviction suit, a
2 sworn petition must be filed with the court. The petition must
3 include the contents required by the Texas Rules of Civil
4 Procedure.

5 Sec. 24.00506. RULES OF COURT. (a) A court may adopt local
6 rules, forms, or standing orders for eviction suits in accordance
7 with the Texas Rules of Civil Procedure.

8 (b) A court may not adopt local rules, forms, or standing
9 orders for eviction suits that:

10 (1) require content in or with the petition other than
11 the content required by the Texas Rules of Civil Procedure;

12 (2) require any mediation, pretrial conference, or
13 other proceeding before trial; or

14 (3) authorize the dismissal of an eviction suit on the
15 basis that the petition is improper if the petition:

16 (A) meets the requirements of the Texas Rules of
17 Civil Procedure; or

18 (B) can be amended to meet the requirements of
19 the Texas Rules of Civil Procedure.

20 SECTION 6. Section [24.0051](#), Property Code, is amended to
21 read as follows:

22 Sec. 24.0051. PROCEDURES APPLICABLE IN SUIT TO EVICT AND
23 RECOVER UNPAID RENT. (a) In a suit filed in justice court in which
24 the landlord files a sworn petition ~~[statement]~~ seeking judgment
25 against a tenant for possession of the premises and unpaid rent,
26 personal service on the tenant or service on the tenant under the
27 ~~[Rule 742a]~~ Texas Rules of Civil Procedure~~[7]~~ is procedurally

1 sufficient to support a default judgment for possession of the
2 premises and unpaid rent.

3 (b) A landlord may recover unpaid rent under this section
4 regardless of whether the tenant vacated the premises after the
5 date the landlord filed the sworn petition [~~statement~~] and before
6 the date the court renders judgment.

7 (c) In a suit to recover possession of the premises, whether
8 or not unpaid rent is claimed, the citation [~~required by Rule 739,~~
9 ~~Texas Rules of Civil Procedure,~~] must include the following notice
10 to the tenant [~~defendant~~]:

11 FAILURE TO APPEAR FOR TRIAL MAY RESULT IN A DEFAULT JUDGMENT BEING
12 ENTERED AGAINST YOU.

13 (d) In a suit described by Subsection (c), the citation
14 [~~required by Rule 739, Texas Rules of Civil Procedure,~~] must
15 include the following notice to the tenant [~~defendant~~] on the first
16 page of the citation in English and Spanish and in conspicuous bold
17 print:

18 SUIT TO EVICT

19 THIS SUIT TO EVICT INVOLVES IMMEDIATE DEADLINES. A TENANT
20 WHO IS SERVING ON ACTIVE MILITARY DUTY MAY HAVE SPECIAL RIGHTS OR
21 RELIEF RELATED TO THIS SUIT UNDER FEDERAL LAW, INCLUDING THE
22 SERVICEMEMBERS CIVIL RELIEF ACT (50 U.S.C. APP. SECTION 501 ET
23 SEQ.), OR STATE LAW, INCLUDING SECTION 92.017, TEXAS PROPERTY CODE.
24 CALL THE STATE BAR OF TEXAS TOLL-FREE AT 1-877-9TEXBAR IF YOU NEED
25 HELP LOCATING AN ATTORNEY. IF YOU CANNOT AFFORD TO HIRE AN
26 ATTORNEY, YOU MAY BE ELIGIBLE FOR FREE OR LOW-COST LEGAL
27 ASSISTANCE.

1 (e) If the landlord files a motion for summary disposition
2 under Section 24.005106 with the petition, the citation must
3 include the following notice to the tenant on the first page of the
4 citation in English and Spanish and in conspicuous bold print:

5 THE PETITION INCLUDES A MOTION FOR SUMMARY DISPOSITION. IF
6 THE MOTION SHOWS THERE ARE NO GENUINELY DISPUTED FACTS THAT WOULD
7 PREVENT A JUDGMENT IN FAVOR OF THE LANDLORD, THE COURT MAY ENTER
8 JUDGMENT IN FAVOR OF THE LANDLORD WITHOUT A TRIAL UNLESS:

9 (1) NOT LATER THAN THE FOURTH DAY AFTER YOU ARE SERVED
10 WITH THE LANDLORD'S SWORN PETITION, YOU FILE A RESPONSE SETTING OUT
11 SUPPORTING FACTS AND ANY APPLICABLE DOCUMENTS ON WHICH YOUR
12 RESPONSE RELIES; AND

13 (2) THE JUSTICE COURT DETERMINES THAT SERVICE ON YOU
14 WAS PROPER AND, BASED ON THE LANDLORD'S SWORN PETITION AND YOUR
15 RESPONSE, THERE ARE GENUINELY DISPUTED FACTS THAT WOULD PREVENT A
16 JUDGMENT IN FAVOR OF THE LANDLORD.

17 (f) A sheriff or constable, including a deputy sheriff or
18 deputy constable, shall make a diligent effort to serve the
19 citation and petition not later than the fifth business day after
20 the date the petition is filed. If the citation and petition are
21 not served on or before the fifth business day after the date the
22 petition is filed, the landlord may, but is not obligated to,
23 provide for the citation and petition to be served by any other law
24 enforcement officer, including an off-duty officer, that has
25 received appropriate training in the service of process, eviction
26 procedures, and the execution of writs, as determined by the Texas
27 Commission on Law Enforcement.

1 (g) The court:

2 (1) shall, subject to this subsection, hold the trial
3 of an eviction suit on a date that is not earlier than the 10th day
4 or later than the 21st day after the date the petition is filed;

5 (2) may not hold the trial on a date that is earlier
6 than the fourth day after the date the tenant is served with the
7 petition; and

8 (3) may not postpone the date of a trial for more than
9 seven days unless the parties agree to the postponement in writing.

10 SECTION 7. Chapter 24, Property Code, is amended by adding
11 Sections 24.005105, 24.005106, and 24.005107 to read as follows:

12 Sec. 24.005105. ELECTRONIC PROCEEDINGS. If the parties
13 agree, a justice court may allow the parties in an eviction suit to
14 appear at a court proceeding in the suit by videoconference,
15 teleconference, or other available electronic means.

16 Sec. 24.005106. SUMMARY DISPOSITION AND TRIAL. (a) A
17 landlord that files a sworn petition under Section 24.00505 may
18 include with the petition a sworn motion for summary disposition
19 without trial. The motion must set out all supporting facts, and
20 documents on which the motion relies must be attached. If the
21 motion shows that there are no genuinely disputed facts that would
22 prevent a judgment in favor of the landlord, the court may enter
23 judgment in favor of the landlord without a trial unless:

24 (1) not later than the fourth day after the date the
25 tenant is served with the landlord's sworn petition, the tenant
26 files a response setting out supporting facts, and providing any
27 applicable documents, on which the response relies; and

1 (2) the justice court determines that service on the
2 tenant was proper and, based on the landlord's sworn petition and
3 the tenant's response, if any, there are genuinely disputed facts
4 that would prevent a judgment in favor of the landlord.

5 (b) The justice court:

6 (1) may enter judgment for the landlord regardless of
7 the tenant's response if the response does not show there is a
8 genuinely disputed fact that would prevent judgment in favor of the
9 landlord; and

10 (2) may consider a response filed by the tenant later
11 than the fourth day after the date the tenant was served with the
12 landlord's sworn petition and motion if the response shows there is
13 a genuinely disputed fact that would prevent judgment in favor of
14 the landlord and the tenant has filed the response before judgment
15 has been entered.

16 (c) If the justice court determines that there are genuinely
17 disputed facts that would prevent a judgment in favor of the
18 landlord, the justice court shall set a trial date that is not
19 earlier than the 10th day and not later than the 21st day after the
20 date the petition is filed by the landlord. The justice court may
21 immediately set the case for trial upon the tenant's request for a
22 trial in response to a motion for summary disposition.

23 (d) A judgment on summary disposition under this section has
24 the same effect as any other judgment in an eviction suit.

25 Sec. 24.005107. APPEAL TO COUNTY COURT. (a) A party may
26 appeal the judgment of a justice court in an eviction suit by filing
27 a bond, cash deposit, or statement of inability to afford payment of

1 court costs with the justice court not later than the fifth day
2 after the date the judgment is signed. A tenant who files an appeal
3 must affirm, under penalty of perjury, the tenant's good faith
4 belief that the tenant has a meritorious defense and that the appeal
5 is not for the purpose of delay. An appeal is perfected when a bond,
6 cash deposit, or statement of inability to afford payment of court
7 costs is timely filed with the justice court in accordance with this
8 section.

9 **(b) The justice court shall forward the transcript and**
10 **original papers in an appeal of an eviction case to the county**
11 **court, by electronic means or otherwise, not earlier than 4 p.m. on**
12 **the sixth day or later than 4 p.m. on the 10th day after the date the**
13 **tenant files the appeal, except that, if the court confirms that the**
14 **tenant has timely paid the initial rent payment into the justice**
15 **court registry in accordance with Section 24.0053, the court may**
16 **forward the transcript and original papers immediately.**

17 **(c) The county court shall hold a trial not later than the**
18 **21st day after the date the transcript and original papers are**
19 **delivered to the county court.**

20 SECTION 8. Section 24.00511(a), Property Code, is amended
21 to read as follows:

22 (a) In a residential eviction suit [~~for nonpayment of rent~~],
23 the justice court shall state in the court's judgment the amount of
24 the appeal bond, taking into consideration the money required to be
25 paid into the court registry under Section 24.0053.

26 SECTION 9. Section 24.00512(f), Property Code, is amended
27 to read as follows:

(f) If an appeal of a decision disapproving the appeal bond is filed, the justice court shall transmit to the county court the contest to the appeal bond and all relevant documents. The county court shall docket the appeal, schedule a hearing to be held not later than the fifth day after the date the appeal is docketed, notify the parties and the surety of the hearing time and date, and hear the contest de novo. The failure of the county court to hold a timely hearing is not grounds for approval or denial of the appeal. A writ of possession may not be issued before the county court issues a final decision on the appeal bond, except as provided by Section 24.0054.

SECTION 10. Section 24.0052, Property Code, is amended to read as follows:

Sec. 24.0052. TENANT APPEAL ON STATEMENT OF INABILITY TO AFFORD PAYMENT OF COURT COSTS [~~PAUPER'S AFFIDAVIT~~]. (a) If a tenant in a residential eviction suit is unable to pay the costs of appeal or file an appeal bond as required by the Texas Rules of Civil Procedure, the tenant may appeal the judgment of the justice court by filing with the justice court, not later than the fifth day after the date the judgment is signed, a statement of inability to afford payment of court costs [~~pauper's affidavit~~] sworn before the clerk of the justice court or a notary public that states that the tenant is unable to pay the costs of appeal or file an appeal bond. The statement [~~affidavit~~] must contain the following information:

- (1) the tenant's identity;
- (2) the nature and amount of the tenant's employment income;

1 (3) the income of the tenant's spouse, if applicable
2 and available to the tenant;

3 (4) the nature and amount of any governmental
4 entitlement income of the tenant;

5 (5) all other income of the tenant;

6 (6) the amount of available cash and funds available
7 in savings or checking accounts of the tenant;

8 (7) real and personal property owned by the tenant,
9 other than household furnishings, clothes, tools of a trade, or
10 personal effects;

11 (8) the tenant's debts and monthly expenses; and

12 (9) the number and age of the tenant's dependents and
13 where those dependents reside.

14 (b) The justice court shall make available a ~~[an affidavit]~~
15 form that a person may use to comply with the requirements of
16 Subsection (a).

17 (c) The justice court shall promptly notify the landlord if
18 a statement described by Subsection (a) ~~[pauper's affidavit]~~ is
19 filed by the tenant.

20 (d) A landlord may contest a statement filed under this
21 section ~~[pauper's affidavit]~~ on or before the fifth day after the
22 date the statement ~~[affidavit]~~ is filed. If the landlord contests
23 the statement ~~[affidavit]~~, the justice court shall notify the
24 parties and hold a hearing to determine whether the tenant is unable
25 to pay the costs of appeal or file an appeal bond. The hearing shall
26 be held not later than the fifth day after the date the landlord
27 notifies the court clerk of the landlord's contest. At the hearing,

1 the tenant has the burden to prove by competent evidence, including
2 documents or credible testimony of the tenant or others, that the
3 tenant is unable to pay the costs of appeal or file an appeal bond.

4 (e) If the justice court approves a statement filed by [~~the~~
5 ~~pauper's affidavit of~~] a tenant under this section, the tenant is
6 not required to pay the county court filing fee or file an
7 additional statement [~~affidavit~~] in the county court under
8 Subsection (a).

9 SECTION 11. Section 24.0053, Property Code, is amended by
10 amending Subsections (a), (a-1), (a-2), (a-3), (b), (c), (d), and
11 (e) and adding Subsection (a-5) to read as follows:

12 (a) If the justice court enters judgment for the landlord in
13 a residential eviction case [~~based on nonpayment of rent~~], the
14 court shall determine the amount of rent to be paid each rental pay
15 period during the pendency of any appeal and shall note that amount
16 in the judgment. If a portion of the rent is payable by a government
17 agency, the court shall determine and note in the judgment the
18 portion of the rent to be paid by the government agency and the
19 portion to be paid by the tenant. The court's determination shall
20 be in accordance with the terms of the rental agreement and
21 applicable laws and regulations. If there is no rental agreement,
22 the court shall determine:

23 (1) the rental pay period; and

24 (2) the amount of rent to be paid by the tenant in each
25 rental pay period, which must be the greater of:

26 (A) \$250; or

27 (B) the fair market rent, if determined by the

1 court. ~~[This subsection does not require or prohibit payment of~~
2 ~~rent into the court registry or directly to the landlord during the~~
3 ~~pendency of an appeal of an eviction case based on grounds other~~
4 ~~than nonpayment of rent.]~~

5 (a-1) If ~~[In an eviction suit for nonpayment of rent, if]~~ a
6 tenant files an appeal of a justice court's judgment in an eviction
7 suit ~~[a pauper's affidavit in the period prescribed by Section~~
8 ~~24.0052 or an appeal bond pursuant to the Texas Rules of Civil~~
9 ~~Procedure]~~, the justice court shall provide to the tenant a written
10 notice at the time the ~~[pauper's affidavit or]~~ appeal ~~[bond]~~ is
11 filed that contains the following information in bold or
12 conspicuous type:

13 (1) the amount of ~~[the initial deposit of]~~ rent stated
14 in the judgment that the tenant must pay into the justice court or
15 county court registry, as applicable, during the pendency of the
16 appeal;

17 (2) whether the rent ~~[initial deposit]~~ must be paid in
18 cash, cashier's check, or money order, and to whom the cashier's
19 check or money order, if applicable, must be made payable;

20 (3) the calendar date by which the rent ~~[initial~~
21 ~~deposit]~~ must be paid into the justice court or county court
22 registry, as applicable;

23 (4) for a court that closes before 5 p.m. on the date
24 specified by Subdivision (3), the time the court closes; and

25 (5) a statement that failure to pay the required
26 amount into the justice court or county court registry, as
27 applicable, by the date prescribed by Subdivision (3) may result in

1 the justice court or county court issuing a writ of possession
2 without a hearing.

3 (a-2) The tenant shall:

4 (1) not later than the fifth day after the date the
5 tenant files the appeal, pay rent for one rental pay period into the
6 justice court registry; and

7 (2) on or before the beginning of each rental pay
8 period during the pendency of the appeal, pay rent for one rental
9 pay period into the justice court or county court registry, as
10 applicable, according to the court in which the case is pending at
11 the time of payment [~~The date by which an initial deposit must be~~
12 ~~paid into the justice court registry under Subsection (a-1)(3) must~~
13 ~~be within five days of the date the tenant files the pauper's~~
14 ~~affidavit as required by the Texas Rules of Civil Procedure]~~.

15 (a-3) The justice court or county court, as applicable,
16 shall disburse rent paid into the justice court or county court
17 registry to the landlord on request at any time during or after the
18 pendency of the appeal [~~If a tenant files an appeal bond to appeal~~
19 ~~an eviction for nonpayment of rent, the tenant must, not later than~~
20 ~~the fifth day after the date the tenant filed the appeal bond, pay~~
21 ~~into the justice court registry the amount of rent to be paid in one~~
22 ~~rental pay period as determined by the court under Subsection (a).~~
23 ~~If the tenant fails to timely pay that amount into the justice court~~
24 ~~registry and the transcript has not yet been transmitted to the~~
25 ~~county court, the plaintiff may request a writ of possession. On~~
26 ~~request and payment of the applicable fee, the justice court shall~~
27 ~~issue the writ of possession immediately and without a hearing.~~

~~Regardless of whether a writ of possession is issued, the justice court shall transmit the transcript and appeal documents to the county court for trial de novo on issues relating to possession, rent, or attorney's fees].~~

(a-5) A tenant's payment of rent into a court registry under this section relieves the tenant of the obligation to pay rent to the landlord only for the rental pay period for which the payment is made.

~~(b) [If an eviction case is based on nonpayment of rent and the tenant appeals by filing a pauper's affidavit, the tenant shall pay the rent, as it becomes due, into the justice court or the county court registry, as applicable, during the pendency of the appeal, in accordance with the Texas Rules of Civil Procedure and Subsection (a).]~~ If a government agency is responsible for all or a portion of the rent under an agreement with the landlord, the tenant shall pay only that portion of the rent determined by the justice court under Subsection (a) to be paid by the tenant during appeal, subject to either party's right to contest that determination under Subsection (c).

(c) If ~~[an eviction case is based on nonpayment of rent and]~~ the tenant's rent during the rental agreement term has been paid wholly or partly by a government agency, either party may contest the portion of the rent that the justice court determines must be paid into the county court registry by the tenant under this section. The contest must be filed on or before the fifth day after the date the justice signs the judgment. If a contest is filed, not later than the fifth day after the date the contest is filed the

justice court shall notify the parties and hold a hearing to determine the amount owed by the tenant in accordance with the terms of the rental agreement and applicable laws and regulations. After hearing the evidence, the justice court shall determine the portion of the rent that must be paid by the tenant under this section.

(d) ~~[If the tenant objects to the justice court's ruling under Subsection (c) on the portion of the rent to be paid by the tenant during appeal, the tenant shall be required to pay only the portion claimed by the tenant to be owed by the tenant until the issue is tried de novo along with the case on the merits in county court.]~~ During the pendency of the appeal, either party may file a motion with the county court to reconsider the amount of the rent that must be paid by the tenant into the registry of the court.

(e) If either party files a contest under Subsection (c) and the tenant files a statement of inability to afford payment of court costs ~~[pauper's affidavit]~~ that is contested by the landlord under Section 24.0052(d), the justice court shall hold the hearing on both contests at the same time.

SECTION 12. Sections 24.0054(a), (a-1), (a-2), and (f), Property Code, are amended to read as follows:

(a) During an appeal of an eviction case ~~[for nonpayment of rent]~~, the justice court or county court, as applicable, on request shall immediately issue a writ of possession, without hearing, if ~~[+]~~

~~[(1)]~~ a tenant fails to pay ~~[the initial]~~ rent ~~[deposit]~~ into the appropriate ~~[justice]~~ court registry ~~[within five days of the date the tenant filed a pauper's affidavit]~~ as required by ~~[Rule 749b(1), Texas Rules of Civil Procedure, and]~~

1 Section 24.0053 and ~~[7~~

2 ~~[(2)]~~ the justice court has provided the written
3 notice required by Section 24.0053(a-1) ~~[7, and~~

4 ~~[(3) the justice court has not yet forwarded the~~
5 ~~transcript and original papers to the county court as provided by~~
6 ~~Subsection (a-2)]~~.

7 (a-1) The sheriff, the ~~[or]~~ constable, or another law
8 enforcement officer shall execute a writ of possession under
9 Subsection (a) in accordance with Sections 24.0061(d) through (h).
10 The landlord shall bear the costs of issuing and executing the writ
11 of possession.

12 (a-2) If the justice court issues a writ of possession under
13 this section, the ~~[The justice court shall forward the transcript~~
14 ~~and original papers in an appeal of an eviction case to the county~~
15 ~~court but may not forward the transcript and original papers before~~
16 ~~the sixth day after the date the tenant files a pauper's affidavit,~~
17 ~~except that, if the court confirms that the tenant has timely paid~~
18 ~~the initial deposit of rent into the justice court registry in~~
19 ~~accordance with Section 24.0053, the court may forward the~~
20 ~~transcript and original papers immediately. If the tenant has not~~
21 ~~timely paid the initial deposit into the justice court registry,~~
22 ~~the justice court on request shall issue a writ of possession~~
23 ~~notwithstanding the fact that the tenant has perfected an appeal by~~
24 ~~filing a pauper's affidavit that has been approved by the court.~~
25 ~~The]~~ justice court shall forward the transcript and original papers
26 in the eviction case to the county court for trial de novo to
27 resolve any remaining issues in the case, such as rent or attorney's

1 fees, notwithstanding the fact that the [a] writ [~~of possession~~
2 ~~under this section~~] has [~~already~~] been issued or executed.

3 (f) During the appeal of an eviction case, if a government
4 agency is responsible for payment of a portion of the rent and does
5 not pay that portion to the landlord or into the justice court or
6 county court registry, the landlord may file a motion with the
7 county court requesting that the tenant be required to pay into the
8 county court registry, as a condition of remaining in possession,
9 the full amount of each rental period's rent, as it becomes due
10 under the rental agreement. After notice and hearing, the court
11 shall grant the motion if the landlord proves by credible evidence
12 that:

13 (1) a portion of the rent is owed by a government
14 agency;

15 (2) the portion of the rent owed by the government
16 agency is unpaid;

17 (3) the landlord did not cause wholly or partly the
18 agency to cease making the payments; and

19 (4) the landlord did not cause wholly or partly the
20 agency to pay the wrong amount[, ~~and~~

21 [~~(5) the landlord is not able to take reasonable~~
22 ~~action that will cause the agency to resume making the payments of~~
23 ~~its portion of the total rent due under the rental agreement~~].

24 SECTION 13. Section [24.0061](#), Property Code, is amended by
25 amending Subsections (a), (b), (c), (h), and (i) and adding
26 Subsection (b-1) to read as follows:

27 (a) A landlord who prevails in an eviction suit is entitled

1 to a judgment for possession of the premises and a writ of
2 possession. In this chapter, "premises" means:

3 (1) a [the] unit that is occupied or rented; and

4 (2) [and] any outside area or facility:

5 (A) that a [the] tenant is entitled to use under a
6 written lease or oral rental agreement;

7 (B) [~~or~~] that is held out for the use of tenants
8 generally; and

9 (C) that is occupied by or in the possession of
10 the person against whom the eviction suit is filed.

11 (b) A writ of possession may not be issued before the sixth
12 day after the date on which the judgment for possession is rendered
13 unless a possession bond has been filed and approved under the Texas
14 Rules of Civil Procedure [~~and judgment for possession is thereafter~~
15 ~~granted by default~~].

16 (b-1) The issuance of a writ of possession is a ministerial
17 act not subject to review or delay. A sheriff or constable,
18 including a deputy sheriff or deputy constable, shall serve the
19 writ of possession not later than the fifth business day after the
20 date the writ is issued. If the writ of possession is not served on
21 or before the fifth business day after the date the writ is issued,
22 the landlord may, but is not obligated to, have the writ served by
23 any other law enforcement officer, including an off-duty officer,
24 who has received training as described by Section [24.0051\(f\)](#).

25 (c) The court shall notify a tenant in writing of a default
26 judgment for possession or a judgment for possession under Section
27 24.005106 by sending a copy of the judgment to the premises by first

1 class mail not later than 48 hours after the entry of the judgment.

2 (h) An officer ~~[A sheriff or constable]~~ may use reasonable
3 force in executing a writ under this section.

4 (i) A landlord is not liable for damages to the tenant
5 resulting from the enforcement of a judgment in favor of the
6 landlord under this chapter, including the execution of a writ of
7 possession by an officer under this section.

8 SECTION 14. Section 24.011, Property Code, is amended to
9 read as follows:

10 Sec. 24.011. NONLAWYER REPRESENTATION. (a) In an eviction
11 suit ~~[suits]~~ in justice court ~~[for nonpayment of rent or holding~~
12 ~~over beyond a rental term]~~, the parties may represent themselves or
13 be represented by their authorized agents, who need not be
14 attorneys. ~~[In any eviction suit in justice court, an authorized~~
15 ~~agent requesting or obtaining a default judgment need not be an~~
16 ~~attorney.]~~

17 (b) In an appeal of an eviction suit for nonpayment of rent
18 in a county or district court, an owner of a multifamily residential
19 property may be represented by the owner's authorized agent, who
20 need not be an attorney~~[, or, if the owner is a corporation or other~~
21 ~~entity, by an employee, owner, officer, or partner of the entity,~~
22 ~~who need not be an attorney].~~

23 SECTION 15. The following provisions of the Property Code
24 are repealed:

25 (1) Sections 24.005(f), (f-1), (f-2), (g), (h), and
26 (i);

27 (2) Section 24.0053(a-4); and

1 (3) Sections 24.0054(a-3), (a-4), (b), (c), (d), and
2 (e).

3 SECTION 16. The supreme court shall adopt rules as
4 necessary to clarify eviction procedures consistent with Chapter
5 24, Property Code, as amended by this Act.

6 SECTION 17. The changes in law made by this Act apply only
7 to an eviction suit in which the petition is filed on or after
8 January 1, 2026. An eviction suit in which the petition is filed
9 before January 1, 2026, is governed by the law as it existed
10 immediately before January 1, 2026, and that law is continued in
11 effect for that purpose.

12 SECTION 18. (a) Except as provided by Subsection (b) of
13 this section, this Act takes effect January 1, 2026.

14 (b) Section 16 of this Act takes effect September 1, 2025.