

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 in a precinct in the county in which the real property is located that is adjacent to the precinct in which the real property is located has jurisdiction in eviction suits. Eviction suits include forcible entry and detainer and forcible detainer suits. A justice court has jurisdiction to issue a writ of possession under Sections 24.0051, 24.0054(a), and 24.0061 [~~(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

Section 24.0041 to read as follows:

Sec. 24.0041. AUTHORITY TO MODIFY OR SUSPEND EVICTION PROCEDURES. Notwithstanding any other law, including Section 22.004, Government Code, only the legislature may modify or suspend procedures prescribed by this chapter.

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

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

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

(a) In a forcible detainer suit against a tenant whose right of possession is terminated based on nonpayment of rent ~~[If the occupant is a tenant under a written lease or oral rental agreement]~~, the landlord must give the ~~[a]~~ tenant ~~[who defaults or holds over beyond the end of the rental term or renewal period]~~ at least three days' written notice ~~[to vacate the premises]~~ before the landlord files a forcible detainer suit, unless the parties have contracted for a shorter or longer notice period in a written lease or agreement. Written notice under this section may be given in the form of a notice to pay rent or vacate or a notice to vacate. A landlord who files a forcible detainer suit on grounds other than nonpayment of rent is not required to give presuit notice under this chapter ~~[that the tenant is holding over beyond the end of the rental term or renewal period must also comply with the tenancy termination requirements of Section 91.001]~~.

1 (b) ~~[If the occupant is a tenant at will or by sufferance,~~
2 ~~the landlord must give the tenant at least three days' written~~
3 ~~notice to vacate before the landlord files a forcible detainer suit~~
4 ~~unless the parties have contracted for a shorter or longer notice~~
5 ~~period in a written lease or agreement.]~~ If a building is purchased
6 at a tax foreclosure sale or a trustee's foreclosure sale under a
7 lien superior to the tenant's lease and the tenant timely pays rent
8 and is not otherwise in default under the tenant's lease after
9 foreclosure, the purchaser must give a residential tenant of the
10 building at least 30 days' written notice to vacate if the purchaser
11 chooses not to continue the lease. The tenant is considered to
12 timely pay the rent under this subsection if, during the month of
13 the foreclosure sale, the tenant pays the rent for that month to the
14 landlord before receiving any notice that a foreclosure sale is
15 scheduled during the month or pays the rent for that month to the
16 foreclosing lienholder or the purchaser at foreclosure not later
17 than the fifth day after the date of receipt of a written notice of
18 the name and address of the purchaser that requests payment. Before
19 a foreclosure sale, a foreclosing lienholder may give written
20 notice to a tenant stating that a foreclosure notice has been given
21 to the landlord or owner of the property and specifying the date of
22 the foreclosure.

23 (c-1) If an applicable federal law or rule requires a
24 landlord to give a tenant entitled to presuit notice under this
25 section a longer presuit notice period than is required by this
26 section, the notice period under this section runs concurrently
27 with the notice period prescribed by the federal law.

(e) If the lease or applicable law requires a ~~[the]~~ landlord to give a tenant entitled to presuit notice under this section an opportunity to respond to a notice of proposed eviction before filing an eviction suit:

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

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

(f-3) A notice required by this section must be delivered:

(1) in any manner the parties agree to in writing; or

(2) if no agreement is made in writing:

(A) in any other manner in which the tenant has communicated in writing with the landlord; or

(B) if the tenant has not communicated in writing with the landlord, in a manner reasonably expected to provide actual notice.

SECTION 5. Chapter [24](#), Property Code, is amended by adding Section 24.00505 to read as follows:

Sec. 24.00505. PETITION. (a) To initiate an eviction suit, a sworn petition must be filed with the court. The petition must include:

(1) the name of the plaintiff;

(2) the name, address, telephone number, and e-mail

address, if any, of the plaintiff's attorney, if applicable, or the address, telephone number, and e-mail address, if any, of the plaintiff;

(3) the name, address, and telephone number, if known, of the defendant or, if the defendant is not known, a statement that the plaintiff does not know the name of the defendant;

(4) a description, including the address, if any, of the premises of which the plaintiff seeks possession;

(5) a description of the facts and the grounds for eviction;

(6) if required, a description of when and how the notice to pay rent or vacate or notice to vacate was delivered;

(7) the amount of money, if any, the plaintiff seeks;

(8) if unpaid rent is sought, the amount of the monthly rent, when the monthly rent is due, and the total amount of rent unpaid at the time of filing;

(9) a statement that attorney's fees are being sought, if applicable; and

(10) a statement consenting to e-mail service and providing e-mail contact information.

(b) The court may not:

(1) require content in the petition other than content required by this section; or

(2) dismiss an eviction suit on the basis that a petition is improper if the petition:

(A) meets the requirements of this section; or

(B) can be amended to meet the requirements of

1 this section.

2 SECTION 6. Section 24.0051, Property Code, is amended to
3 read as follows:

4 Sec. 24.0051. PROCEDURES APPLICABLE IN EVICTIION SUIT;
5 RECOVERY OF [~~TO EVICT AND RECOVER~~] UNPAID RENT. (a) In a suit filed
6 in justice court in which the plaintiff [~~landlord~~] files a sworn
7 statement seeking judgment against a defendant [~~tenant~~] for
8 possession of the premises and unpaid rent, personal service on the
9 defendant [~~tenant~~] or substituted service on the defendant [~~tenant~~]
10 under the [~~Rule 742a,~~] Texas Rules of Civil Procedure[~~7~~] is
11 procedurally sufficient to support a default judgment for
12 possession of the premises and unpaid rent.

13 (b) A plaintiff [~~landlord~~] may recover unpaid rent under
14 this section regardless of whether the defendant [~~tenant~~] vacated
15 the premises after the date the plaintiff [~~landlord~~] filed the
16 sworn statement and before the date the court renders judgment.

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

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

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

27 SUIT TO EVICT

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

(e) An eviction suit may be served by:

(1) a sheriff or constable, including a deputy sheriff or deputy constable;

(2) any other law enforcement officer, including an off-duty officer retained by the plaintiff for that purpose; or

(3) a process server authorized to serve other civil process in this state.

(f) The court:

(1) shall hold the trial of an eviction suit on a date that is not earlier than the 10th day or later than the 21st day after the date the petition is filed; and

(2) may not hold the trial on a date that is earlier than the third day after the date the defendant is served with the petition.

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

Sec. 24.005105. ELECTRONIC PROCEEDINGS. A justice court may allow or require a participant in an eviction suit to appear at,

1 and a judge may hold, a court proceeding in the suit by
2 videoconference, teleconference, or other available electronic
3 means. A judge holding a court proceeding under this section by
4 videoconference, teleconference, or other available electronic
5 means is not required to conduct the court proceeding from the
6 judge's office.

7 Sec. 24.005106. SUMMARY DISPOSITION AND TRIAL. (a) A
8 plaintiff that files a sworn petition under Section 24.00505 may
9 include with the petition a sworn motion for summary disposition
10 without trial. The motion must set out all supporting facts, and
11 documents on which the motion relies must be attached. If the
12 motion shows that there are no genuinely disputed facts that would
13 prevent a judgment in favor of the plaintiff, the court shall, not
14 later than the 10th day after the date the plaintiff files the
15 petition and motion, enter judgment in favor of the plaintiff
16 without a trial unless:

17 (1) not later than the third day after the date the
18 defendant is served with the plaintiff's sworn petition, the
19 defendant files a sworn written response setting out all supporting
20 facts and attaching all documents on which the response relies; and

21 (2) the justice court determines that, based on the
22 plaintiff's sworn petition and the defendant's sworn response,
23 there are genuinely disputed facts that would prevent a judgment in
24 favor of the plaintiff.

25 (b) The justice court:

26 (1) may enter judgment for the plaintiff regardless of
27 the defendant's sworn response if the response does not show there

1 is a genuinely disputed fact that would prevent judgment in favor of
2 the plaintiff; and

3 (2) may not consider a response filed by the defendant
4 later than the third day after the date the defendant was served
5 with the plaintiff's sworn petition and motion.

6 (c) If the justice court determines that there are genuinely
7 disputed facts that would prevent a judgment in favor of the
8 plaintiff, the justice court shall set a trial date that is not
9 earlier than the 10th day and not later than the 21st day after the
10 date the petition and motion are filed by the plaintiff.

11 (d) A writ of possession issued after entry of judgment in
12 favor of the plaintiff on summary disposition under this section
13 may not be executed before the fourth day after the date the
14 defendant is served with the petition.

15 Sec. 24.005107. APPEAL TO COUNTY COURT. (a) A party may
16 appeal the judgment of a justice court in an eviction suit by filing
17 a notice of appeal and a bond, cash deposit, or statement of
18 inability to afford payment of court costs with the justice court
19 not later than the fifth day after the date the judgment is signed.
20 A defendant who files a notice of appeal must affirm in the notice,
21 under penalty of perjury, the defendant's good faith belief that
22 the defendant has a meritorious defense and that the appeal is not
23 for the purpose of delay. An appeal is perfected when a notice of
24 appeal and a bond, cash deposit, or statement of inability to afford
25 payment of court costs are timely filed with the justice court in
26 accordance with this section.

27 (b) The justice court shall forward the transcript and

1 original papers in an appeal of an eviction case to the county court
2 but may not forward the transcript and original papers before the
3 sixth day after the date the defendant files a notice of appeal,
4 except that, if the court confirms that the defendant has timely
5 paid the initial rent payment into the justice court registry in
6 accordance with Section 24.0053, the court may forward the
7 transcript and original papers immediately.

8 (c) The county court shall hold a trial not later than the
9 21st day after the date the transcript and original papers are
10 delivered to the county court.

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

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

17 SECTION 9. Sections 24.00512(f) and (g), Property Code, are
18 amended to read as follows:

19 (f) If an appeal of a decision disapproving the appeal bond
20 is filed, the justice court shall transmit to the county court the
21 contest to the appeal bond and all relevant documents. The county
22 court shall docket the appeal, schedule a hearing to be held not
23 later than the fifth day after the date the appeal is docketed,
24 notify the parties and the surety of the hearing time and date, and
25 hear the contest de novo. The failure of the county court to hold a
26 timely hearing is not grounds for approval or denial of the appeal.
27 A writ of possession may not be issued before the county court

1 issues a final decision on the appeal bond, except as provided by
2 Section 24.0054.

3 (g) After the contest is heard by the county court, the
4 county clerk shall transmit the transcript and records of the case
5 to the justice court. If the county court disapproves the appeal
6 bond, the party may, not later than the fifth day after the date the
7 court disapproves the appeal bond, perfect the appeal of the
8 judgment on the eviction suit by making a cash deposit in the
9 justice court in an amount determined by the county court or by
10 filing a sworn statement of inability to pay with the justice court
11 pursuant to the Texas Rules of Civil Procedure. If the defendant
12 [~~tenant~~] is the appealing party and a cash deposit in the required
13 amount is not timely made or a sworn statement of inability to pay
14 is not timely filed, the judgment of the justice court becomes final
15 and a writ of possession and other processes to enforce the judgment
16 must be issued on the payment of the required fee. If the plaintiff
17 [~~landlord~~] is the appealing party and a cash deposit is not timely
18 made or a sworn statement of inability to pay is not timely filed,
19 the judgment of the justice court becomes final. If the appeal bond
20 is approved by the county court, the court shall transmit the
21 transcript and other records of the case to the justice court, and
22 the justice court shall proceed as if the appeal bond was originally
23 approved.

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

26 Sec. 24.0052. DEFENDANT [~~TENANT~~] APPEAL ON PAUPER'S
27 AFFIDAVIT. (a) If a defendant [~~tenant~~] in a residential eviction

1 suit is unable to pay the costs of appeal or file an appeal bond as
2 required by the Texas Rules of Civil Procedure, the defendant
3 ~~[tenant]~~ may appeal the judgment of the justice court by filing with
4 the justice court, not later than the fifth day after the date the
5 judgment is signed, a pauper's affidavit sworn before the clerk of
6 the justice court or a notary public that states that the defendant
7 ~~[tenant]~~ is unable to pay the costs of appeal or file an appeal
8 bond. The affidavit must contain the following information:

- 9 (1) the defendant's ~~[tenant's]~~ identity;
- 10 (2) the nature and amount of the defendant's
11 ~~[tenant's]~~ employment income;
- 12 (3) the income of the defendant's ~~[tenant's]~~ spouse,
13 if applicable and available to the defendant ~~[tenant]~~;
- 14 (4) the nature and amount of any governmental
15 entitlement income of the defendant ~~[tenant]~~;
- 16 (5) all other income of the defendant ~~[tenant]~~;
- 17 (6) the amount of available cash and funds available
18 in savings or checking accounts of the defendant ~~[tenant]~~;
- 19 (7) real and personal property owned by the defendant
20 ~~[tenant]~~, other than household furnishings, clothes, tools of a
21 trade, or personal effects;
- 22 (8) the defendant's ~~[tenant's]~~ debts and monthly
23 expenses; and
- 24 (9) the number and age of the defendant's ~~[tenant's]~~
25 dependents and where those dependents reside.

26 (b) The justice court shall make available an affidavit form
27 that a person may use to comply with the requirements of Subsection

(a).

(c) The justice court shall promptly notify the plaintiff ~~[landlord]~~ if a pauper's affidavit is filed by the defendant ~~[tenant]~~.

(d) A plaintiff ~~[landlord]~~ may contest a pauper's affidavit on or before the fifth day after the date the affidavit is filed. If the plaintiff ~~[landlord]~~ contests the affidavit, the justice court shall notify the parties and hold a hearing to determine whether the defendant ~~[tenant]~~ is unable to pay the costs of appeal or file an appeal bond. The hearing shall be held not later than the fifth day after the date the plaintiff ~~[landlord]~~ notifies the court clerk of the plaintiff's ~~[landlord's]~~ contest. At the hearing, the defendant ~~[tenant]~~ has the burden to prove by competent evidence, including documents or credible testimony of the defendant ~~[tenant]~~ or others, that the defendant ~~[tenant]~~ is unable to pay the costs of appeal or file an appeal bond.

(e) If the justice court approves the pauper's affidavit of a defendant ~~[tenant]~~, the defendant ~~[tenant]~~ is not required to pay the county court filing fee or file an additional affidavit in the county court under Subsection (a).

SECTION 11. Sections 24.0053(a), (a-1), (a-2), (a-3), (b), (c), (d), and (e), Property Code, are amended to read as follows:

(a) If the justice court enters judgment for the plaintiff ~~[landlord]~~ in a residential eviction case ~~[based on nonpayment of rent]~~, the court shall determine the amount of rent to be paid each rental pay period during the pendency of any appeal and shall note that amount in the judgment. If a portion of the rent is payable by

1 a government agency, the court shall determine and note in the
2 judgment the portion of the rent to be paid by the government agency
3 and the portion to be paid by the defendant [~~tenant~~]. The court's
4 determination shall be in accordance with the terms of the rental
5 agreement and applicable laws and regulations. If there is no
6 rental agreement, the court shall determine:

7 (1) the rental pay period; and

8 (2) the amount of rent to be paid by the defendant in
9 each rental pay period, which must be the greater of:

10 (A) \$500; or

11 (B) the fair market rent, if determined by the
12 court. [~~This subsection does not require or prohibit payment of~~
13 ~~rent into the court registry or directly to the landlord during the~~
14 ~~pendency of an appeal of an eviction case based on grounds other~~
15 ~~than nonpayment of rent.~~]

16 (a-1) If [~~In an eviction suit for nonpayment of rent, if~~] a
17 defendant [~~tenant~~] files an appeal of a justice court's judgment in
18 an eviction suit [~~a pauper's affidavit in the period prescribed by~~
19 ~~Section 24.0052 or an appeal bond pursuant to the Texas Rules of~~
20 ~~Civil Procedure~~], the justice court shall provide to the defendant
21 [~~tenant~~] a written notice at the time the [~~pauper's affidavit or~~
22 ~~appeal bond~~] is filed that contains the following information in
23 bold or conspicuous type:

24 (1) the amount of [~~the initial deposit of~~] rent stated
25 in the judgment that the defendant [~~tenant~~] must pay into the
26 justice court or county court registry, as applicable, during the
27 pendency of the appeal;

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

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

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

9 (5) a statement that failure to pay the required
10 amount into the justice court or county court registry, as
11 applicable, by the date prescribed by Subdivision (3) may result in
12 the justice court or county court issuing a writ of possession
13 without a hearing.

14 (a-2) The defendant shall:

15 (1) not later than the fifth day after the date the
16 defendant files a notice of appeal, pay rent for one rental pay
17 period into the justice court registry; and

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

26 (a-3) The justice court or county court, as applicable,
27 shall disburse rent paid into the justice court or county court

1 registry to the plaintiff on request at any time during or after the
 2 pendency of the appeal [~~If a tenant files an appeal bond to appeal~~
 3 ~~an eviction for nonpayment of rent, the tenant must, not later than~~
 4 ~~the fifth day after the date the tenant filed the appeal bond, pay~~
 5 ~~into the justice court registry the amount of rent to be paid in one~~
 6 ~~rental pay period as determined by the court under Subsection (a).~~
 7 ~~If the tenant fails to timely pay that amount into the justice court~~
 8 ~~registry and the transcript has not yet been transmitted to the~~
 9 ~~county court, the plaintiff may request a writ of possession. On~~
 10 ~~request and payment of the applicable fee, the justice court shall~~
 11 ~~issue the writ of possession immediately and without a hearing.~~
 12 ~~Regardless of whether a writ of possession is issued, the justice~~
 13 ~~court shall transmit the transcript and appeal documents to the~~
 14 ~~county court for trial de novo on issues relating to possession,~~
 15 ~~rent, or attorney's fees].~~

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

27 (c) If [~~an eviction case is based on nonpayment of rent and~~]

the defendant's [~~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 defendant [~~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 defendant [~~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 defendant [~~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 defendant [~~tenant~~] into the registry of the court.

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

SECTION 12. The heading to Section 24.0054, Property Code,

is amended to read as follows:

Sec. 24.0054. DEFENDANT'S ~~[TENANT'S]~~ FAILURE TO PAY RENT DURING APPEAL.

SECTION 13. Section 24.0054, Property Code, is amended by amending Subsections (a), (a-1), (a-2), and (f) and adding Subsection (g) 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 defendant ~~[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]~~ Section 24.0053 and ~~[+~~

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

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

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

(a-2) If the justice court issues a writ of possession under this section, the ~~[The justice court shall forward the transcript and original papers in an appeal of an eviction case to the county~~

1 ~~court but may not forward the transcript and original papers before~~
 2 ~~the sixth day after the date the tenant files a pauper's affidavit,~~
 3 ~~except that, if the court confirms that the tenant has timely paid~~
 4 ~~the initial deposit of rent into the justice court registry in~~
 5 ~~accordance with Section 24.0053, the court may forward the~~
 6 ~~transcript and original papers immediately. If the tenant has not~~
 7 ~~timely paid the initial deposit into the justice court registry,~~
 8 ~~the justice court on request shall issue a writ of possession~~
 9 ~~notwithstanding the fact that the tenant has perfected an appeal by~~
 10 ~~filing a pauper's affidavit that has been approved by the court.~~
 11 ~~The]~~ justice court shall forward the transcript and original papers
 12 in the eviction case to the county court for trial de novo to
 13 resolve any remaining issues in the case, such as rent or attorney's
 14 fees, notwithstanding the fact that the [a] writ [~~of possession~~
 15 ~~under this section~~] has [~~already~~] been issued or executed.

16 (f) During the appeal of an eviction case, if a government
 17 agency is responsible for payment of a portion of the rent and does
 18 not pay that portion to the plaintiff [~~landlord~~] or into the justice
 19 court or county court registry, the plaintiff [~~landlord~~] may file a
 20 motion with the county court requesting that the defendant [~~tenant~~]
 21 be required to pay into the county court registry, as a condition of
 22 remaining in possession, the full amount of each rental period's
 23 rent, as it becomes due under the rental agreement. After notice
 24 and hearing, the court shall grant the motion if the plaintiff
 25 [~~landlord~~] proves by credible evidence that:

26 (1) a portion of the rent is owed by a government
 27 agency;

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

3 (3) the plaintiff [~~landlord~~] did not cause wholly or
4 partly the agency to cease making the payments; and

5 (4) the plaintiff [~~landlord~~] did not cause wholly or
6 partly the agency to pay the wrong amount[~~, and~~

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

10 (g) For the purpose of the county court's determination
11 whether to grant the plaintiff's motion under Subsection (f), the
12 county court may not consider the plaintiff's pursuit of the
13 eviction process to be a cause of the agency ceasing to make the
14 payments or paying the wrong amount.

15 SECTION 14. Sections 24.006(a), (b), and (c), Property
16 Code, are amended to read as follows:

17 (a) Except as provided by Subsection (b), to be eligible to
18 recover attorney's fees in an eviction suit, the person seeking to
19 recover possession of a premises [~~a landlord~~] must give an occupant
20 [~~a tenant~~] who is unlawfully retaining possession of the
21 [~~landlord's~~] premises a written demand to vacate the premises. The
22 demand must state that if the occupant [~~tenant~~] does not vacate the
23 premises before the 11th day after the date of receipt of the notice
24 and if the person seeking to recover possession of the premises
25 [~~landlord~~] files suit, the person seeking to recover possession of
26 the premises [~~landlord~~] may recover attorney's fees. The demand
27 must be sent by registered mail or by certified mail, return receipt

requested, at least 10 days before the date the suit is filed.

(b) If a person seeking to recover possession of the premises ~~[the landlord]~~ provides the occupant ~~[tenant]~~ notice under Subsection (a) or if the person is a landlord under a written lease that entitles the landlord to recover attorney's fees, the person ~~[a prevailing landlord]~~ is entitled to recover reasonable attorney's fees if the person prevails in the eviction suit ~~[from the tenant]~~.

(c) If a person seeking to recover possession of the premises is a ~~[the]~~ landlord under ~~[provides the tenant notice under Subsection (a) or if]~~ a written lease that entitles the landlord or the tenant to recover attorney's fees, the ~~[prevailing]~~ tenant is entitled to recover reasonable attorney's fees from the landlord if the tenant prevails in the eviction suit. A ~~[prevailing]~~ tenant is not required to give notice in order to recover attorney's fees under this subsection.

SECTION 15. Sections [24.0061](#)(a), (b), (c), (d), (d-1), (e), (f), (h), and (i), Property Code, are amended to read as follows:

(a) A plaintiff ~~[landlord]~~ who prevails in an eviction suit is entitled to a judgment for possession of the premises and a writ of possession. In this chapter, "premises" means:

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

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

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

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

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

3 (b) A writ of possession may not be issued before the sixth
4 day after the date on which the judgment for possession is rendered
5 unless a possession bond has been filed and approved under the Texas
6 Rules of Civil Procedure [~~and judgment for possession is thereafter~~
7 ~~granted by default~~]. If judgment in favor of the plaintiff is
8 entered by summary disposition under Section 24.005106, a writ of
9 possession may not be issued before the day after the date of the
10 judgment. The writ of possession may be served by a sheriff,
11 constable, or other law enforcement officer, including an off-duty
12 law enforcement officer retained by the plaintiff for that purpose.

13 (c) The court shall notify a defendant [~~tenant~~] in writing
14 of a default judgment for possession by sending a copy of the
15 judgment to the premises by first class mail not later than 48 hours
16 after the entry of the judgment.

17 (d) The writ of possession shall order the officer executing
18 the writ to:

19 (1) post a written warning of at least 8-1/2 by 11
20 inches on the exterior of the front door of the rental unit
21 notifying the defendant [~~tenant~~] that the writ has been issued and
22 that the writ will be executed on or after a specific date and time
23 stated in the warning not sooner than 24 hours after the warning is
24 posted; and

25 (2) when the writ is executed:

26 (A) deliver possession of the premises to the
27 plaintiff [~~landlord~~];

1 (B) instruct the defendant [~~tenant~~] and all
2 persons claiming under the defendant [~~tenant~~] to leave the premises
3 immediately, and, if the persons fail to comply, physically remove
4 them;

5 (C) instruct the defendant [~~tenant~~] to remove or
6 to allow the plaintiff [~~landlord~~], the plaintiff's [~~landlord's~~]
7 representatives, or other persons acting under the officer's
8 supervision to remove all personal property from the rental unit
9 other than personal property claimed to be owned by the plaintiff
10 [~~landlord~~]; and

11 (D) place, or have an authorized person place,
12 the removed personal property outside the rental unit at a nearby
13 location, but not blocking a public sidewalk, passageway, or street
14 and not while it is raining, sleeting, or snowing, except as
15 provided by Subsection (d-1).

16 (d-1) A municipality may provide, without charge to the
17 plaintiff [~~landlord~~] or to the owner of personal property removed
18 from a rental unit under Subsection (d), a portable, closed
19 container into which the removed personal property shall be placed
20 by the officer executing the writ or by the authorized person. The
21 municipality may remove the container from the location near the
22 rental unit and dispose of the contents by any lawful means if the
23 owner of the removed personal property does not recover the
24 property from the container within a reasonable time after the time
25 the property is placed in the container.

26 (e) The writ of possession shall authorize the officer, at
27 the officer's discretion, to engage the services of a bonded or

1 insured warehouseman to remove and store, subject to applicable
2 law, part or all of the property at no cost to the plaintiff
3 ~~[landlord]~~ or the officer executing the writ.

4 (f) The officer may not require the plaintiff ~~[landlord]~~ to
5 store the property.

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

8 (i) A plaintiff ~~[landlord]~~ is not liable for damages to the
9 defendant ~~[tenant]~~ resulting from the enforcement of a judgment in
10 favor of the plaintiff under this chapter including the execution
11 of a writ of possession by an officer under this section.

12 SECTION 16. Sections 24.0062(a), (b), (d), (e), (g), and
13 (i), Property Code, are amended to read as follows:

14 (a) If personal property is removed from a defendant's
15 ~~[tenant's]~~ premises as the result of an action brought under this
16 chapter and stored in a bonded or insured public warehouse, the
17 warehouseman has a lien on the property to the extent of any
18 reasonable storage and moving charges incurred by the warehouseman.
19 The lien does not attach to any property until the property has been
20 stored by the warehouseman.

21 (b) If property is to be removed and stored in a public
22 warehouse under a writ of possession, the officer executing the
23 writ shall, at the time of execution, deliver in person to the
24 defendant ~~[tenant]~~, or by first class mail to the defendant's
25 ~~[tenant's]~~ last known address not later than 72 hours after
26 execution of the writ if the defendant ~~[tenant]~~ is not present, a
27 written notice stating the complete address and telephone number of

the location at which the property may be redeemed and stating that:

(1) the defendant's [~~tenant's~~] property is to be removed and stored by a public warehouseman under Section 24.0062 of the Property Code;

(2) the defendant [~~tenant~~] may redeem any of the property, without payment of moving or storage charges, on demand during the time the warehouseman is removing the property from the defendant's [~~tenant's~~] premises and before the warehouseman permanently leaves the defendant's [~~tenant's~~] premises;

(3) within 30 days from the date of storage, the defendant [~~tenant~~] may redeem any of the property described by Section 24.0062(e), Property Code, on demand by the defendant [~~tenant~~] and on payment of the moving and storage charges reasonably attributable to the items being redeemed;

(4) after the 30-day period and before sale, the defendant [~~tenant~~] may redeem the property on demand by the defendant [~~tenant~~] and on payment of all moving and storage charges; and

(5) subject to the previously stated conditions, the warehouseman has a lien on the property to secure payment of moving and storage charges and may sell all the property to satisfy reasonable moving and storage charges after 30 days, subject to the requirements of Section 24.0062(j) of the Property Code.

(d) On demand by the defendant [~~tenant~~] during the time the warehouseman is removing the property from the defendant's [~~tenant's~~] premises and before the warehouseman permanently leaves the defendant's [~~tenant's~~] premises, the warehouseman shall return

1 to the defendant [~~tenant~~] all property requested by the defendant
2 [~~tenant~~], without charge.

3 (e) On demand by the defendant [~~tenant~~] within 30 days after
4 the date the property is stored by the warehouseman and on payment
5 by the defendant [~~tenant~~] of the moving and storage charges
6 reasonably attributable to the items being redeemed, the
7 warehouseman shall return to the defendant [~~tenant~~] at the
8 warehouse the following property:

- 9 (1) wearing apparel;
- 10 (2) tools, apparatus, and books of a trade or
11 profession;
- 12 (3) school books;
- 13 (4) a family library;
- 14 (5) family portraits and pictures;
- 15 (6) one couch, two living room chairs, and a dining
16 table and chairs;
- 17 (7) beds and bedding;
- 18 (8) kitchen furniture and utensils;
- 19 (9) food and foodstuffs;
- 20 (10) medicine and medical supplies;
- 21 (11) one automobile and one truck;
- 22 (12) agricultural implements;
- 23 (13) children's toys not commonly used by adults;
- 24 (14) goods that the warehouseman or the warehouseman's
25 agent knows are owned by a person other than the defendant [~~tenant~~]
26 or an occupant of the residence;
- 27 (15) goods that the warehouseman or the warehouseman's

agent knows are subject to a recorded chattel mortgage or financing agreement; and

(16) cash.

(g) On demand by the defendant ~~[tenant]~~ to the warehouseman after the 30-day period and before sale and on payment by the defendant ~~[tenant]~~ of all unpaid moving and storage charges on all the property, the warehouseman shall return all the previously unredeemed property to the defendant ~~[tenant]~~ at the warehouse.

(i) Before the sale of the property by the warehouseman, the defendant ~~[tenant]~~ may file suit in the justice court in which the eviction judgment was rendered, or in another court of competent jurisdiction in the county in which the rental premises are located, to recover the property described by Subsection (e) on the ground that the plaintiff ~~[landlord]~~ failed to return the property after timely demand and payment by the defendant ~~[tenant]~~, as provided by this section. Before sale, the defendant ~~[tenant]~~ may also file suit to recover all property moved or stored by the warehouseman on the ground that the amount of the warehouseman's moving or storage charges is not reasonable. All proceedings under this subsection have precedence over other matters on the court's docket. The justice court that issued the writ of possession has jurisdiction under this section regardless of the amount in controversy.

SECTION 17. Section 24.011, Property Code, is amended to read as follows:

Sec. 24.011. NONLAWYER REPRESENTATION. (a) In an eviction suit ~~[suits]~~ in justice court ~~[for nonpayment of rent or holding~~

1 ~~over beyond a rental term]~~, the parties may represent themselves or
2 be represented by their authorized agents, who need not be
3 attorneys. ~~[In any eviction suit in justice court, an authorized~~
4 ~~agent requesting or obtaining a default judgment need not be an~~
5 ~~attorney.]~~

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

12 SECTION 18. Chapter 24, Property Code, is amended by adding
13 Section 24.012 to read as follows:

14 Sec. 24.012. MUNICIPAL OR COUNTY SUPPORT FOR TENANTS IN
15 EVICTON PROCESS. (a) A municipality or county that funds a legal
16 aid service or organization to provide information, advice, or
17 representation to eligible tenants in the eviction process shall
18 provide an equal amount of funding to pay for relocation assistance
19 for tenants.

20 (b) Relocation assistance provided to a tenant under
21 Subsection (a) must be in a sufficient amount to enable the tenant
22 to move out of the premises from which the tenant is being evicted,
23 including:

- 24 (1) the tenant's moving expenses;
25 (2) a security deposit, if one is required; and
26 (3) one month's rent.

27 SECTION 19. The following provisions of the Property Code

1 are repealed:

2 (1) Section 24.002(b);

3 (2) Sections 24.005(c), (d), (f), (f-1), (f-2), (h),
4 and (i);

5 (3) Section 24.0053(a-4); and

6 (4) Sections 24.0054(a-3), (a-4), (b), (c), (d), and
7 (e).

8 SECTION 20. The changes in law made by this Act apply only
9 to an eviction suit in which the petition is filed on or after the
10 effective date of this Act. An eviction suit in which the petition
11 is filed before the effective date of this Act is governed by the
12 law as it existed immediately before the effective date of this Act,
13 and that law is continued in effect for that purpose.

14 SECTION 21. This Act takes effect September 1, 2025.