

1-1 By: Clardy, Moody (Senate Sponsor - Menéndez) H.B. No. 1334
1-2 (In the Senate - Received from the House April 20, 2015;
1-3 May 4, 2015, read first time and referred to Committee on State
1-4 Affairs; May 22, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 22, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Ellis	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Estes	X		
1-14	Fraser	X		
1-15	Nelson	X		
1-16	Schwertner		X	
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1334 By: Schwertner

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the appeal of a residential eviction suit.
1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-23 SECTION 1. Chapter 24, Property Code, is amended by adding
1-24 Sections 24.00511 and 24.00512 to read as follows:
1-25 Sec. 24.00511. APPEAL BOND FOR CERTAIN EVICTION SUITS. (a)
1-26 In a residential eviction suit for nonpayment of rent, the justice
1-27 court shall state in the court's judgment the amount of the appeal
1-28 bond, taking into consideration the money required to be paid into
1-29 the court registry under Section 24.0053.
1-30 (b) In addition to meeting all other requirements of law,
1-31 the bond must require the surety to provide the surety's contact
1-32 information, including an address, phone number, and e-mail
1-33 address, if any. If any of the contact information changes, the
1-34 surety shall inform the court of the surety's new contact
1-35 information.
1-36 Sec. 24.00512. CONTEST OF CERTAIN APPEAL BONDS. (a) This
1-37 section does not apply to an appeal bond issued by a corporate
1-38 surety authorized by the Texas Department of Insurance to engage in
1-39 business in this state.
1-40 (b) If a party appeals the judgment of a justice court in a
1-41 residential eviction suit for nonpayment of rent by filing an
1-42 appeal bond, the opposing party may contest the bond amount, form of
1-43 the bond, or financial ability of a surety to pay the bond by filing
1-44 a written notice with the justice court contesting the appeal bond
1-45 on or before the fifth day after the date the appeal bond is filed
1-46 and serving a copy on the other party. After the notice is filed,
1-47 the justice court shall notify the other party and the surety of the
1-48 contest.
1-49 (c) Not later than the fifth day after the date the contest
1-50 is filed, the justice court shall hold a hearing to hear evidence to
1-51 determine whether to approve or disapprove the amount or form of the
1-52 bond or the surety.
1-53 (d) If a party contests the amount or form of the bond, the
1-54 contesting party has the burden to prove, by a preponderance of the
1-55 evidence, that the amount or form of the bond, as applicable, is
1-56 insufficient. If a party contests the financial ability of a surety
1-57 to pay the bond, the party filing the bond must prove, by a
1-58 preponderance of the evidence, that the surety has sufficient
1-59 nonexempt assets to pay the appeal bond. If the justice court
1-60 determines that the amount or form of the bond is insufficient or

2-1 the surety does not have sufficient nonexempt assets to pay the
 2-2 appeal bond, the justice court must disapprove the bond. If the
 2-3 surety fails to appear at the contest hearing, the failure to appear
 2-4 is prima facie evidence that the bond should be disapproved.

2-5 (e) Not later than the fifth day after the date the justice
 2-6 court disapproves an appeal bond, the party appealing may make a
 2-7 cash deposit, file a sworn statement of inability to pay with the
 2-8 justice court, or appeal the decision disapproving the appeal bond
 2-9 to the county court. If the party appealing fails to make a cash
 2-10 deposit, file a sworn statement of inability to pay, or appeal the
 2-11 decision disapproving the appeal bond, the judgment of the justice
 2-12 court becomes final and a writ of possession and other processes to
 2-13 enforce the judgment must be issued on the payment of the required
 2-14 fee.

2-15 (f) If an appeal is filed, the justice court shall transmit
 2-16 to the county court the contest to the appeal bond and all relevant
 2-17 documents. The county court shall docket the appeal, schedule a
 2-18 hearing to be held not later than the fifth day after the date the
 2-19 appeal is docketed, notify the parties and the surety of the hearing
 2-20 time and date, and hear the contest de novo. The failure of the
 2-21 county court to hold a timely hearing is not grounds for approval or
 2-22 denial of the appeal. A writ of possession may not be issued before
 2-23 the county court issues a final decision on the appeal bond.

2-24 (g) After the contest is heard by the county court, the
 2-25 county clerk shall transmit the transcript and records of the case to
 2-26 the justice court. If the county court disapproves the appeal
 2-27 bond, the party may, not later than the fifth day after the date the
 2-28 court disapproves the appeal bond, perfect the appeal of the
 2-29 judgment on the eviction suit by making a cash deposit in the
 2-30 justice court in an amount determined by the county court or by
 2-31 filing a sworn statement of inability to pay with the justice court
 2-32 pursuant to the Texas Rules of Civil Procedure. If the tenant is
 2-33 the appealing party and a cash deposit in the required amount is not
 2-34 timely made or a sworn statement of inability to pay is not timely
 2-35 filed, the judgment of the justice court becomes final and a writ of
 2-36 possession and other processes to enforce the judgment must be
 2-37 issued on the payment of the required fee. If the landlord is the
 2-38 appealing party and a cash deposit is not timely made or a sworn
 2-39 statement of inability to pay is not timely filed, the judgment of
 2-40 the justice court becomes final. If the appeal bond is approved by
 2-41 the county court, the court shall transmit the transcript and other
 2-42 records of the case to the justice court, and the justice court
 2-43 shall proceed as if the appeal bond was originally approved.

2-44 SECTION 2. Chapter 24, Property Code, is amended by adding
 2-45 Section 24.00521 to read as follows:

2-46 Sec. 24.00521. CONTEST OF CERTAIN APPEAL BONDS IN COUNTY
 2-47 COURT. A contest under Section 24.00512 does not preclude a party
 2-48 from contesting the appeal bond in the county court after the county
 2-49 court has jurisdiction over the eviction suit. After the county
 2-50 court has jurisdiction over the eviction suit, the county court may
 2-51 modify the amount or form of the bond and determine the sufficiency
 2-52 of the surety.

2-53 SECTION 3. Section 24.0053, Property Code, is amended by
 2-54 amending Subsections (a-1) and (a-2) and adding Subsections (a-3)
 2-55 and (a-4) to read as follows:

2-56 (a-1) In an eviction suit for nonpayment of rent, if ~~[If]~~ a
 2-57 tenant files a pauper's affidavit in the period prescribed by
 2-58 Section 24.0052 or an appeal bond pursuant to the Texas Rules of
 2-59 Civil Procedure ~~[to appeal an eviction for nonpayment of rent]~~, the
 2-60 justice court shall provide to the tenant a written notice at the
 2-61 time the pauper's affidavit or appeal bond is filed that contains
 2-62 the following information in bold or conspicuous type:

2-63 (1) the amount of the initial deposit of rent stated in
 2-64 the judgment that the tenant must pay into the justice court
 2-65 registry;

2-66 (2) whether the initial deposit must be paid in cash,
 2-67 cashier's check, or money order, and to whom the cashier's check or
 2-68 money order, if applicable, must be made payable;

2-69 (3) the calendar date by which the initial deposit

3-1 must be paid into the justice court registry;
3-2 (4) for a court that closes before 5 p.m. on the date
3-3 specified by Subdivision (3), the time the court closes; and
3-4 (5) a statement that failure to pay the required
3-5 amount into the justice court registry by the date prescribed by
3-6 Subdivision (3) may result in the court issuing a writ of possession
3-7 without a hearing.

3-8 (a-2) The date by which an initial deposit must be paid into
3-9 the justice court registry under Subsection (a-1)(3) must be within
3-10 five days of the date the tenant files the pauper's affidavit as
3-11 required by the [~~Rule 749b(1)~~] Texas Rules of Civil Procedure.

3-12 (a-3) If a tenant files an appeal bond to appeal an eviction
3-13 for nonpayment of rent, the tenant must, not later than the fifth
3-14 day after the date the tenant filed the appeal bond, pay into the
3-15 justice court registry the amount of rent to be paid in one rental
3-16 pay period as determined by the court under Subsection (a). If the
3-17 tenant fails to timely pay that amount into the justice court
3-18 registry and the transcript has not yet been transmitted to the
3-19 county court, the plaintiff may request a writ of possession. On
3-20 request and payment of the applicable fee, the justice court shall
3-21 issue the writ of possession immediately and without a hearing.
3-22 Regardless of whether a writ of possession is issued, the justice
3-23 court shall transmit the transcript and appeal documents to the
3-24 county court for trial de novo on issues relating to possession,
3-25 rent, or attorney's fees.

3-26 (a-4) On sworn motion and hearing, the plaintiff in the
3-27 eviction suit may withdraw money deposited in the court registry
3-28 before the final determination in the case, dismissal of the
3-29 appeal, or order of the court after final hearing. The county court
3-30 shall give precedence to a hearing or motion under this subsection.

3-31 SECTION 4. The change in law made by this Act applies only
3-32 to an eviction suit filed on or after the effective date of this
3-33 Act. A suit filed before the effective date of this Act is governed
3-34 by the law in effect immediately before the effective date of this
3-35 Act, and that law is continued in effect for that purpose.

3-36 SECTION 5. This Act takes effect January 1, 2016.

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