

CHAPTER 1089

S.B. No. 1341

AN ACT

relating to writs of possession.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 24.0061, Property Code, is amended to read as follows:

Sec. 24.0061. WRIT OF POSSESSION. (a) A landlord who prevails in a forcible entry and detainer or a forcible detainer action is entitled to a judgment for possession of the premises, awards of costs and attorney's fees as provided by Section 24.006, and a writ of possession. "*Premises*" shall mean the rental unit and any outside area or facility which the tenant is entitled to use under the lease or which is held out for the use of tenants generally. A prevailing tenant is entitled to a judgment for costs and, if appropriate, reasonable attorney's fees.

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

(c) The writ of possession shall order the officer executing the writ to deliver possession of the premises to the landlord and to:

(1) instruct the tenant and all persons claiming under the tenant to leave the premises immediately, and, if the persons fail to comply, physically remove them;

(2) instruct the tenant to remove or to allow the landlord, the landlord's representatives, or other persons acting under the officer's supervision to remove all personal property from the premises other than personal property claimed to be owned by the landlord; and

(3) place, or have an authorized person place, the removed personal property outside the rental unit [premises] at a nearby location, but not on a public or private sidewalk, passageway, street, or parking area and not while it is raining, sleeting, or snowing.

(d) The writ of possession shall authorize the officer, at the officer's discretion, to:

(1) post a written warning on the exterior of the front door of the rental unit [premises], notifying the tenant that the writ has been issued and that it will be executed on or after a specific date and time stated in the warning; and

(2) engage the services of a bonded warehouseman to remove and store, subject to applicable law, part or all of the property at no cost to the landlord or the officer executing the writ.

(e) The writ of possession shall contain notice to the officer that under Chapter 714, Acts of the 67th Legislature, Regular Session, 1981 (Article 3799a, Vernon's Texas Civil Statutes), the officer is not liable for damages resulting from the execution of the writ if the officer executes the writ in good faith and with reasonable diligence.

(f) An officer may, if necessary, use reasonable force in executing a writ under this section.

SECTION 2. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 11, 1987, by a viva-voce vote. Passed the House on May 29, 1987, by a non-record vote.

Approved June 20, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.