

SUBJECT: Establishing criminal penalties for unauthorized occupation of property

COMMITTEE: Trade, Workforce & Economic Development — committee substitute recommended

VOTE: 10 ayes — Button, K. Bell, Bhojani, Harris Davila, Longoria, Lujan, Luther, Meza, Ordaz, Richardson

0 nays

1 absent — Talarico

SENATE VOTE: On final passage (April 15) — 27 – 4

WITNESSES: For — David Howard, National Rental Home Council; John Bonura, Texas Public Policy Foundation (*Registered, but did not testify*: Shane Deel, Callahan County Attorney; Ryan Skrobarczyk, City of Corpus Christi; T. J. Patterson, City of Fort Worth; Joshua Sanders, City of Houston; Christine Wright, City of San Antonio; Mark Melton, Dallas Eviction Advocacy Center; Santiago Franco, Harris County Commissioners Court; James Kershaw, Harris County Deputies' Organization FOP #39; Heidi Ruiz, Houston Police Department; Ray Hunt, Houston Police Officers' Union; Guy Herman, Statutory Probate Judges of Texas; Lee Parsley, Texans for Lawsuit Reform; Chris Newton, Texas Apartment Association; Frances Blake, Texas Association of Builders; Ron Hinkle, Texas Association of Campground Owners; Blake Roach, Texas Farm Bureau; Aaron Day, Texas Land Title Association; Michael Mengden and Julia Parenteau, Texas Realtors)

Against — None

On — (*Registered, but did not testify*: Steven Deline; Thomas Parkinson)

BACKGROUND: Concerns have been raised that property owners lack clear legal tools to remove unauthorized occupants and that squatters can cause financial harm by damaging or neglecting property.

DIGEST: CSSB 1333 would authorize a property owner or agent to request immediate removal of a person unlawfully occupying a residential dwelling by the sheriff or constable of the county if:

- the property was not open to the public and was not the subject of pending litigation;
- the owner or agent had directed the person to leave the property, and the person had not done so; and
- the person was not a current or former tenant of the owner under a lease, or an immediate family member of the owner.

The owner could request the removal by filing a complaint under oath or as an unsworn declaration with a sheriff or constable, who would be required to verify ownership of the property, serve notice to immediately vacate the property on the person occupying the dwelling, and put the owner in possession of the dwelling. A service of notice could be accomplished by hand delivery to the occupant or by attaching it to the entrance of the dwelling. The bill would prescribe the written form for the complaint.

The bill would require the sheriff or constable serving notice to attempt to verify the identity of each person occupying the dwelling and to note each identity on the return of service. The sheriff or constable would be authorized to arrest an occupant who had an outstanding warrant, or for an offense for which the officer had probable cause.

The sheriff or constable would be entitled to receive a fee from the complainant for executing the removal equal to the fee for executing a writ of possession, and could be asked by the owner to remain on the property to keep the peace while the owner changed the locks or removed the occupant's personal property.

The sheriff or constable would not be liable for damages resulting from the removal of a person or property. A property owner also would not be liable for damages to personal property resulting from its removal from

the owner's property.

A person who was wrongfully removed, or whose personal property was wrongfully removed, from a dwelling would be permitted to bring an action to recover possession of the property and recover actual damages, court costs, attorney's fees, and exemplary damages equal to three times the fair market rent of the dwelling. The court would be required to set an action for hearing at the earliest practicable date.

The bill would specify that the removal process would not limit the rights of the property owner or the authority of a law enforcement officer to arrest an unauthorized occupant of a dwelling for another offense.

The bill would create a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) offense for knowingly using a false, fraudulent, or fictitious document that attempted to convey real property or an interest in real property. The bill also would create a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) offense for a person who knowingly:

- listed or advertised real property for sale, rent, or lease while knowing the person offering the property did not have legal title or authority to sell, rent, or lease the property; or
- sold, rented, or leased real property to another person without legal title or authority.

The felony offense would not apply to a lender, title company, licensed broker, or agent who did not know that another person involved in the transaction did not have legal title or authority.

The bill would establish the penalty for a criminal mischief offense that involved damaging or destroying a habitation while in the course of committing criminal trespass that resulted in a pecuniary loss of between \$1,000 and \$300,000 as a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000).

The bill would take effect September 1, 2025.

NOTES:

According to the Legislative Budget Board, the fiscal implications of the bill cannot be determined due to a lack of data related to the prevalence of certain conduct described by the bill.