

BILL ANALYSIS

Senate Research Center

S.B. 1333
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1333 seeks to strengthen property owner rights by providing an initial step for property owners to recover their homes from squatters through a speedy resolution via law enforcement action, instead of lengthy and costly court proceedings being their only recourse.

Eviction proceedings are classified as a civil case and aim to resolve traditional landlord/tenant disputes, one where there is a written or oral rental agreement, and one party has violated a term of the agreement. This process is lengthy in nature, as it requires the landlord to issue a written notice of eviction, with typically a three-day period before the eviction suit may be filed with the justice of the peace court where the property is located—from the get-go, these are delayed, as these cannot take place any time before 10 days after the petition has been filed. When a judgment is issued, there is a five-day period to allow both parties to file an appeal. After a final judgment and a writ of possession is issued, there is still a 24-hour notice period before the property owner is able to finally recover the property.

Complex squatter issues are on the rise and clarity is needed for law enforcement to assist. Property owners who find themselves with a squatter problem and begin to navigate this process by serving eviction notices themselves are dismissed or threatened by the squatter. When they seek help from local law enforcement, they are often unwilling to interfere as these are civil cases. If they are called to the site because of an escalated situation, in some instances, squatters claim their right to the property orally, or more seasoned squatters produce a fake lease preventing law enforcement from removing them, leaving the property owner back where they started.

Property owners in this situation are severely financially impacted since they need to meet financial obligations associated with the property, while the squatter has possession of the home and throughout the entirety of the dispute proceedings in court. Because the squatter rarely maintains the property, when owners finally recuperate their home, it is found in disarray, at best, but typically it is in unlivable conditions and the owner then needs to spend significant resources in repairs.

S.B. 1333 would clarify and bring clear guidelines for law enforcement's intervention:

- Clarify that the property owner has a right to request the removal from their property if a person unlawfully entered and is occupying their property without the owner's consent and is not a family member or a current or former tenant of the property owner, in order to protect tenant/landlord existing statute.
- Provides a clear pathway for the sheriff's or constable's office involvement as a first step:
 - The property owner is required to file an affidavit with the sheriff's or constable's, testifying the occupant has no legal right to be there and they've directed the person to leave the property and the person has not done so.
 - The sheriff's or constable's office is required to verify that the complainant is the record owner of the property before proceeding with the removal process.
 - The sheriff's or constable's office is required to contact the person accused of squatting, give notice of the complaint and recover the property. It allows the property owner to recover damages between \$1,000 and \$300,000 if the property was damaged or destroyed by the squatter(s).

(Original Author's/Sponsor's Statement of Intent)

S.B. 1333 amends current law relating to the unauthorized entry, occupancy, sale, rental, lease, advertisement for sale, rental, or lease, or conveyance of real property, including the removal of certain unauthorized occupants of a dwelling; creates criminal offenses; increases a criminal penalty; and authorizes a fee.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 28.03(b), Penal Code, as follows:

(b) Provides that, except as provided by certain subsections, an offense under Section 28.03 (Criminal Mischief) is:

(1)-(3) makes no changes to these subdivisions;

(4) a state jail felony if the amount of pecuniary loss is of certain amounts, including, except as provided in Subdivision (6)(B), less than \$2,500, if the property damaged or destroyed is a habitation and if the damage or destruction is caused by a firearm or explosive weapon;

(5) makes no changes to this subdivision;

(6) a felony of the second degree if the amount of pecuniary loss is:

(A) creates this paragraph from existing text and makes no further changes; or

(B) \$1,000 or more but less than \$300,000, if the property damaged or destroyed is a habitation and it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 30.05 (Criminal Trespass); or

(7) makes no changes to this subdivision.

Makes nonsubstantive changes to this subsection.

SECTION 2. Amends Subchapter D, Chapter 32, Penal Code, by adding Sections 32.56 and 32.57, as follows:

Sec. 32.56. FALSE, FRAUDULENT, OR FICTITIOUS DOCUMENT CONVEYING REAL PROPERTY INTEREST. (a) Provides that a person commits an offense if, with intent to enter or remain on real property, the person knowingly presents to another person a false, fraudulent, or fictitious document purporting to be a lease agreement, deed, or other instrument conveying real property or an interest in real property.

(b) Provides that an offense under this section is a Class A misdemeanor.

(c) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

Sec. 32.57. FRAUDULENT SALE, RENTAL, OR LEASE OF RESIDENTIAL REAL PROPERTY. (a) Provides that a person commits an offense if the person knowingly:

(1) lists or advertises for sale, rent, or lease residential real property while knowing that the person offering to sell, rent, or lease the property does not have legal title or authority to sell, rent, or lease the property; or

(2) sells, rents, or leases to another person residential real property to which the person does not have legal title or authority to sell, rent, or lease.

(b) Provides that an offense under this section is a felony of the first degree.

(c) Authorizes the actor, if conduct that constitutes an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

(d) Provides that it is an exception to the application of Subsection (a)(2) that the person participated in the transaction to sell, rent, or lease the property:

(1) as a lender, a title company, or a broker or agent licensed under Chapter 1101 (Real Estate Brokers and Sales Agents), Occupations Code, or an employee or agent of a lender, a title company, or a broker or agent licensed under Chapter 1101, Occupations Code; and

(2) did not know that another person involved in the transaction did not have legal title or authority to sell, rent, or lease the property.

SECTION 3. Amends Title 4, Property Code, by adding Chapter 24B, as follows:

CHAPTER 24B. REMOVAL OF CERTAIN UNAUTHORIZED OCCUPANTS OF REAL PROPERTY

Sec. 24B.001. RIGHT TO REQUEST REMOVAL OF UNAUTHORIZED OCCUPANT OF DWELLING BY SHERIFF OR CONSTABLE. Authorizes an owner of residential real property or the owner's agent, notwithstanding any other law, to request that the sheriff or constable of the county in which the property is located immediately remove a person who unlawfully entered and is occupying a dwelling on the property without the owner's consent if the property was not open to the public when the person entered the property and is not the subject of pending litigation between the owner and the person, the owner or the owner's agent has directed the person to leave the property and the person has not done so, and the person is not a current or former tenant of the owner under an oral or written lease or an immediate family member of the owner.

Sec. 24B.002. COMPLAINT TO REQUEST REMOVAL OF UNAUTHORIZED OCCUPANT. (a) Authorizes a property owner or the owner's agent to request the removal of a person under Section 24B.001 by submitting to the sheriff or constable of the county in which the property is located a complaint in substantially a certain form that complies with Subsection (b). Sets forth the required language to be including in the complaint.

(b) Requires that a complaint submitted under this section be made under oath or made as an unsworn declaration under Section 132.001 (Unsworn Declaration), Civil Practice and Remedies Code.

Sec. 24B.003. VERIFICATION OF COMPLAINT; SERVICE OF NOTICE TO IMMEDIATELY VACATE. (a) Requires a sheriff or constable who receives a complaint under Section 24B.002 to verify that the complainant is the record owner of the property that is the subject of the complaint or the owner's agent and otherwise entitled to the relief sought in the complaint.

(b) Requires the sheriff or constable, on verifying the complaint under Subsection (a), to without delay serve notice to immediately vacate on the person occupying

the dwelling without the owner's consent and put the owner in possession of the dwelling.

(c) Provides that service of notice to immediately vacate is authorized to be accomplished by hand delivery to an occupant of the dwelling or affixing the notice to the front door or entrance of the dwelling.

(d) Requires a sheriff or constable serving notice to immediately vacate under this section to attempt to verify the identity of each person occupying the dwelling and note each identity on the return of service.

(e) Authorizes a sheriff or constable serving notice to immediately vacate under this section to arrest any person found in the dwelling for an outstanding warrant or for trespass or any other offense for which probable cause exists.

(f) Entitles a sheriff or constable who serves a notice to immediately vacate under this section to receive from the complainant a fee in an amount equal to the amount the sheriff or constable would receive for executing a writ of possession.

(g) Authorizes the property owner or owner's agent, after the service of notice to immediately vacate by the sheriff or constable under Subsection (b), to request that the sheriff or constable remain on the property to keep the peace while the owner or owner's agent changes any locks and removes any personal property of an occupant from the dwelling and places the personal property at or near the property line of the owner's property.

(h) Authorizes the sheriff or constable, if a request described by Subsection (g) is made, to charge the person making the request a reasonable hourly rate set by the sheriff or constable for remaining on the property.

Sec. 24B.004. LIABILITY. (a) Provides that a sheriff or constable is not liable to an unauthorized occupant or any other person for loss or destruction of or damage to property resulting from the removal of a person or property under this chapter.

(b) Provides that a property owner or the owner's agent, subject to Section 24B.005, is not liable to any person for loss or destruction of or damage to personal property resulting from the removal of the personal property from the owner's property under this chapter.

Sec. 24B.005. ACTION FOR WRONGFUL REMOVAL. (a) Authorizes a person who is wrongfully removed, or whose personal property is wrongfully removed, from a dwelling or other real property under this chapter to bring an action under this section to recover possession of the real property and recover from the person who requested the wrongful removal actual damages, exemplary damages equal to three times the fair market rent of the dwelling, court costs, and reasonable attorney's fees.

(b) Requires the court to set an action brought under this section for hearing at the earliest practicable date to expedite the action.

Sec. 24B.006. NONEXCLUSIVITY. Provides that this chapter does not limit the rights of a property owner or the authority of a law enforcement officer to arrest an unauthorized occupant of a dwelling for trespassing, vandalism, theft, or another offense.

SECTION 4. Makes application of Section 28.03, Penal Code, as amended by this Act, prospective.

SECTION 5. Effective date: September 1, 2025.