TEXAS HOUSERS
TEXAS LOW INCOME HOUSING INFORMATION SERVICE

HB 32 Will Dramatically Erode the Rights of Texans Who Rent and Cause Chaos in the Courts

HB 32 (Button) would radically transform the eviction process for leaseholding tenants to benefit landlords at the expense of Texans who rent. This bill has nothing to do with “squatters” and would not address the “squatter problem.” Rather, it is exclusively about weakening due process and protections for Texans who rent.

Top harms of HB 32:

1. **Deprives tenants of a right to a hearing**, by allowing for summary judgments in favor of the landlord with no trial and no ability for the tenant to present their case or possibly even be notified that it is happening.
2. **Eliminates Notices to Vacate** (NTV) in cases that are not for nonpayment of rent. This will clog courts with unnecessary cases that could have been resolved prior to court, and creates an opportunity for pretextual filings on minor lease violations to avoid nonpayment of rent rules.
3. **Makes legal assistance for tenants virtually impossible and preempts local control**, by requiring cities to provide thousands of dollars per tenant of relocation assistance before providing legal assistance to tenants.
4. **Allows landlords to “choose your own judge"** in order to get the most desirable outcome, by allowing landlords to pick and choose whether to file in the appropriate court or any contiguous court.
5. **Shortens eviction timelines and weakens notification requirements**, so tenants will not be provided adequate time or resources to respond to the eviction filing.

Cumulatively, the changes in this bill will result in faster evictions and less due process for renters. By doing so, it will increase homelessness, housing instability, and the many harms related to evictions such as losses in educational attainment for children, lower income attainment, negative health outcomes, and increased cost to taxpayers.

This bill will have the overall effect of making the landlords’ claims the only and final word in an eviction proceeding. The bill would change the law to presume as a default that landlords have a correct case, and force tenants to react to impossible and unworkable standards to keep up with the sheer speed of an eviction process that does not give them the opportunity to seek justice. This is a subversion of the justice system, and will be easily weaponized by unscrupulous landlords.

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Full list of harms in HB 32:

- Permits “forum shopping” by allowing filing in adjacent precincts, so landlords can shop around for the Justice of the Peace (JP) that they think will give them their preferred outcome in the case.
- Dramatically waters down the Notice to Vacate, removing the potential for tenants to resolve an issue with their landlord or move out before burdening courts.
    - Eliminates requirement for the delivery of a “Notice to Vacate” (NTV) and the pre-filing NTV period in all eviction cases except for nonpayment of rent. This opens up the ability for landlords to skirt requirements for nonpayment of rent cases by finding minor, pretextual lease violations to file under instead.
    - Allows NTV period to run concurrently with any federal notice requirements (e.g., additional mediation at HUD properties that is intended to occur prior to NTV).
    - Loosens requirements for how a landlord can deliver a NTV to a tenant. Allows a landlord to deliver NTV in any way described in the lease or any other way in which communication has occurred in writing.
- Limits JPs’ Authority by restricting the information that they can request to only information required in Code.
- JPs may not dismiss an eviction case due to improper filing. Plaintiffs must be allowed to correct their filing. This removes the ability of courts to even determine whether the parties have standing.
- Allows for process servers retained by the landlord to serve evictions (currently only constables are allowed).
- Dramatically constricts eviction timelines, allowing for an eviction order to be entered just three days after an eviction petition has been served potentially with no opportunity for the tenant to be heard at a hearing. This is considerably shorter than any other such period. It also creates a conflict with state constitutional and rule-based right to a jury trial, which allows tenants to demand a jury trial at least three days prior to the trial, which is impossible if a trial can occur within three days of an eviction being served.
- Allows landlords to prevail without trial by signing a sworn petition that there are no material facts to dispute in the case. Summary judgment on an issue should only occur when there is no genuine dispute over a material fact, but it is impossible to meet that standard when the tenant hasn't even seen what they have been sued for and thus hasn't had a chance to dispute any material fact. A tenant only has three days to file a sworn response disputing the facts of the case. It is not even clear in the proposed bill that the tenant must be served with the landlord’s motion for summary judgment, or if the tenant must be served with the eviction petition *at all* prior to summary judgement. The bill does not require instructions to the tenant about how to submit a sworn response. Because the requirements to notify tenants are so vague, it would be very possible for a judgment to occur without a tenant even realizing that their landlord was pursuing summary judgment.
- Allows a writ of possession to be executed four days after a tenant is served with an eviction petition. This could result in writs being executed in as few as two days after the judgment. This is collapsed down from the current standard of six days, which is the minimum amount of time possible to allow a tenant to appeal their case.
- Violates due process on appeal by requiring tenants to provide a sworn statement that they have a meritorious defense for their appeal.
- Dramatically overhauls appeals process.
- Allows off duty police officers retained by the landlord to execute writ of possession.
- Sets up nearly impossible standards for local governments to fund Legal Aids and other legal services for tenants, jeopardizing the existence of legal assistance for tenants. This is also an encroachment on local control.

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