

BILL ANALYSIS

C.S.H.B. 1853
By: Button
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, an evicted person's possessions may be placed at a location near the residence from which the person is being evicted by an officer executing the related writ of possession or by another authorized person. Some municipalities, interested parties note, have experienced problems with the person's possessions in such cases being spread throughout the streets and neighborhoods near the location of the residence. According to the parties, the City of Garland has developed its own response to this problem by providing a portable closed container for the evicted person's possessions after an eviction has occurred, at no cost to the evicted person or the landlord of the residence. C.S.H.B. 1853 seeks to address a municipality's authority regarding the placement of removed property after a writ of possession has been issued in an eviction suit.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1853 amends the Property Code to authorize a municipality under certain circumstances and without charge to the landlord or to the owner of personal property removed from a rental unit after a writ of possession has been issued in an eviction suit to provide a portable, closed container into which the removed personal property is to be placed by the officer executing the writ or by an authorized person. The bill authorizes the municipality to remove the container from the location near the rental unit and dispose of the contents by any lawful means if the owner of the removed personal property does not recover the property from the container within a reasonable time after the time the property is placed in the container.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1853 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

HOUSE COMMITTEE SUBSTITUTE

84R 20788

15.92.1166

Substitute Document Number: 84R 17683

SECTION 1. Section 24.0061, Property Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) The writ of possession shall order the officer executing the writ to:

(1) post a written warning of at least 8-1/2 by 11 inches on the exterior of the front door of the rental unit notifying the tenant that the writ has been issued and that the writ will be executed on or after a specific date and time stated in the warning not sooner than 24 hours after the warning is posted; and

(2) when the writ is executed:

(A) deliver possession of the premises to the landlord;

(B) 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;

(C) 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 rental unit other than personal property claimed to be owned by the landlord; and

(D) place, or have an authorized person place, the removed personal property outside the rental unit at a nearby location, but not blocking a public sidewalk, passageway, or street and not while it is raining, sleeting, or snowing, except as provided by Subsection (d-1).

(d-1) A municipality may provide, without charge to the owner of personal property removed from a rental unit under Subsection (d), a portable, closed container into which the removed personal property shall be placed by the officer executing the writ or by the authorized person. The municipality may remove the container from the location near the rental unit and dispose of the contents by any lawful means if the owner of the removed personal property does not recover the property from the container within a reasonable time after the time the property is placed in the container.

SECTION 2. This Act takes effect September 1, 2015.

SECTION 1. Section 24.0061, Property Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

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(2) when the writ is executed:

(A) deliver possession of the premises to the landlord;

(B) 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;

(C) 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 rental unit other than personal property claimed to be owned by the landlord; and

(D) place, or have an authorized person place, the removed personal property outside the rental unit at a nearby location, but not blocking a public sidewalk, passageway, or street and not while it is raining, sleeting, or snowing, except as provided by Subsection (d-1).

(d-1) A municipality may provide, without charge to the landlord or to the owner of personal property removed from a rental unit under Subsection (d), a portable, closed container into which the removed personal property shall be placed by the officer executing the writ or by the authorized person. The municipality may remove the container from the location near the rental unit and dispose of the contents by any lawful means if the owner of the removed personal property does not recover the property from the container within a reasonable time after the time the property is placed in the container.

SECTION 2. Same as introduced version.