

SUBJECT: Service of process for unpaid rent and eviction

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 8 ayes — Brimer, Corte, George, Giddings, Ritter, Siebert, Solomons, Woolley
1 nay — Dukes

WITNESSES: For — Rex Baker, Justices of the Peace and Constables Association of Texas; Joe Sharp, Texas Apartment Association
Against — None

BACKGROUND: A 1995 attorney general’s opinion (DM-358) stated that service of citation for unpaid rent and service of citation for eviction are not subject to the same rules of service under the Texas Rules of Civil Procedure. The attorney general ruled that the two suits therefore cannot be joined but must be filed separately.

DIGEST: CSHB 3182 would specify that a landlord could serve process to a tenant for unpaid rent and eviction simultaneously, whether by personal service or alternative service, under the Texas Rules of Civil Procedure. The bill also would allow a landlord to recover unpaid rent regardless of whether the tenant had abandoned the property during the time between when the landlord sought judgment against the tenant and when a court rendered judgment.
The bill would take effect September 1, 1999.

SUPPORTERS SAY: CSHB 3182 would amend the Property Code to clarify that a landlord could attempt simultaneously to collect unpaid rent and evict a tenant, regardless of which method a landlord must use to serve process to the tenant.
It is standard practice for justices of the peace to serve notice and render judgment on both unpaid rent and eviction in a single suit. However, the 1995 attorney general’s opinion questioned the legality of rendering judgment on eviction and back rent in the same suit.

When a tenant suspects that he or she will be evicted for nonpayment of rent, the tenant is likely to abandon the property. Thus, landlords often have to sue for both possession of their property and collection of unpaid rent. Having to file two suits doubles the landlord's court costs and lengthens the suit process. It also might double the cost of any summary judgment made against the tenant, who eventually might have to pay the landlord's court fees. Furthermore, requiring two suits increases court backlogs.

**OPPONENTS
SAY:**

Being sued for unpaid rent is not nearly as serious as being evicted. Because one action would affect a person's quality of life more than the other would, the two judgments should not be made at the same time. Combining the suits would minimize the seriousness of an eviction suit, possibly leading a justice of the peace to render a cursory, hasty judgment on a tenant's eviction.

NOTES:

The committee substitute, although substantially the same as the original bill, conforms to the Legislative Council format and would add a section heading under chapter 24 of the Property Code.