



## SENATE BILL 38 (89-R): What You Need To Know

During the 89th Texas Legislative Session, the Texas Apartment Association (TAA) supported Senate Bill 38 (SB 38). SB 38 makes several important reforms to the civil eviction process and creates an expedited process to address squatters.

SB 38 goes into effect on **January 1, 2026**. Ahead of the bill's implementation, TAA members should be aware of several key reforms to ensure compliance with the new law:

### Pre-Suit notice:

#### Two options

- (a) Notice to Pay Rent or Vacate (NPRV); or
- (b) Notice to Vacate (NTV).

In cases based solely on nonpayment of rent where a resident has not previously been late or delinquent in paying rent, the owner **MUST** provide the resident with a NPRV to give the resident an opportunity to pay rent OR vacate. In cases involving a monetary and nonmonetary breach or where a resident has previously been late or delinquent in paying rent, the owner may deliver either a NTV or NPRV. In cases involving solely a nonmonetary breach (not nonpayment), the owner should deliver a NTV.

### Simplified Notice Delivery:

SB 38 updates the methods by which a NPRV or NTV may be delivered.

- Mail (First Class, Registered, or Certified) or Delivery Service;
- Hand delivery of the notice to the **INSIDE** of the premises, provided the notice is left in a conspicuous place (no longer requiring posting on the inside of the main entry door);
- Electronic communication, including e-mail or other electronic means (as long as the parties have agreed in writing); and
- Hand delivery to any resident of the premises who is 16 years of age or older.

If the resident actually receives the notice, the methods of delivery do not apply.

### CARES Act:

SB 38 addresses federal laws or rules that require an owner to give notice to a resident before the resident is required to vacate the premises. An owner that satisfies the notice requirements of the Texas eviction statute is not required to delay the filing of an eviction suit based on the federal CARES Act, as long as the writ of possession is not served until the period between the delivery of the notice and the service of the writ equals or exceeds the period prescribed by the federal requirement.

This should satisfy the 30-day notice requirement under the CARES Act which provides that the owner may not require the resident to vacate the premises before the date that is 30 days after the date on which the owner provides the resident with a notice to vacate.

Although this new provision satisfies the CARES Act, other federal requirements, such as HUD rules which independently have notice requirements for nonpayment of rent evictions must still be considered. We are currently working with NAA to determine whether these rules can be either eliminated or overcome by this state provision.

Stay tuned!

## Service of Eviction Petitions and Writs of Possession:

A constable or sheriff has five business days after the date an eviction petition is filed to serve the citation and eviction petition. If a constable is unable to serve the citation within 5 business days, owners MAY (but are not obligated to) retain other law enforcement personnel – including off-duty officers – to deliver the citation and petition, so long as the law enforcement official has proper ID and training. Owners are free to continue to allow a constable or sheriff additional time to serve the citation and petition after the expiration of 5 business days. Writs of Possession must be served by a sheriff or constable within 5 business days of the writ being issued. If the writ is not served within 5 business days, owners MAY (but are not obligated to) engage other law enforcement officers to complete the service provided the officer has proper ID and training.

## Summary Disposition for Squatter Cases:

SB 38 creates an expedited process called Summary Disposition that allows owners to remove squatters without going through an eviction trial if the owner requests one and establishes that there are no genuinely disputed facts that would prevent a judgement in favor of the owner. This process is available for forcible entry and detainer cases ONLY (no authorized entry i.e., owner / resident relationship). Before utilizing the Summary Disposition process, TAA recommends its members consult with legal counsel to ensure all procedural requirements have been met.

## More Efficient Court Timelines:

Judgments appealed from a JP Court to a County Court must now be heard by the County Court within 21 days of the date the transcript and original papers are delivered to the court. For both JP Courts and County Courts eviction trials must be held within 21 days of the filing or appeal.

## Mandatory Payments During Appeal:

Any resident appealing any eviction judgment MUST pay the rent identified in the lease. If there is no lease, the court shall determine the rental pay period and the amount of rent to be paid by the tenant which must be the greater of \$250 or the fair market rent. Payments are to be made regardless of whether the appeal is for nonpayment of rent or other lease violation.

## Modification or Suspension of Eviction Procedures:

SB 38 clarifies that only the Texas Legislature can modify or suspend statutory eviction procedures. However, the Texas Supreme Court may modify or suspend statutory procedures following a disaster so long as the modification or suspension applies to ALL courts and not just courts that hear evictions.

## Local Rules of Court:

SB 38 clarifies that local courts may not require content to be included with an eviction petition other than what is required by the Texas Rules of Civil Procedure (TRCP), require mediation, pretrial conference or other proceeding before trial or dismiss an eviction petition if the petition meets the requirements of the TRCP or can be amended to meet the requirements of TRCP.

For additional information and clarifications on the revised Texas civil eviction process under SB 38, please contact TAA Vice President and General Counsel Sandy Hoy at [sandy@taa.org](mailto:sandy@taa.org)