

Eviction Law Comparison – Filed Before vs. On or After Jan. 1, 2026

Topic	Filed Before 1/1/2026	Filed On or After 1/1/2026
Notice to Pay or Vacate	May be given at landlord's option	If tenant has never been delinquent in rent, must give a "notice to pay or vacate" rather than a "notice to vacate"
Method of NTV Delivery	Mail; delivery in person; or posting on outside of door in certain situations with restrictions	Mail; delivery to the inside of the premises in a conspicuous place; hand delivery to any tenant at least 16 years of age; electronically if the parties have agreed in writing
Calculation of NTV Period	Day notice is given is Day 0, then count all days	Day notice is given is Day 0, if day ends on any weekend or state or federal holiday, extends to the next day that isn't a weekend or holiday
Effect of Actual Receipt of NTV	None	If shown that defendant received notice, delivery method doesn't matter, notice is valid
Application of Other Rules	If the judge determines is necessary	May not apply Rules of Evidence or other Rules of Civil Procedure in eviction cases
Petition Contents	Needed to say how and when presuit notice was given	Now must contain information about whether presuit notice was an NTV or a notice to pay or vacate, as well as if the tenant had been delinquent in rent before
Who May Serve Citation	Constable or sheriff	If not served within 5 business days, plaintiff may ask another LEO trained in civil process to serve
Days Before Trial for Service	At least six	At least four
Summary Disposition in Squatter Cases	Doesn't exist	May make a sworn motion, only if defendant is squatter, to receive judgment without trial if defendant doesn't file a response within 4 days disputing facts. Citation must warn defendant.
Immediate Possession Bonds	Only change the time for a writ in event of default.	Plaintiff may get writ 7 days after service of notice of the possession bond as long as defendant was either at trial or served with j/m by plaintiff and has not appealed. Citation must warn defendant.
Fair Trial Venue Change	Must be made at least 7 days before trial, unless good cause shown	Must be made at least 3 days before trial or 3 days after service, whichever is later, unless good cause shown
Jury Request	Must be made at least 3 days before trial	Must be made at least 3 days before trial or 3 days after service, whichever is later
Amount of Appeal Bond in Judgment	Only in nonpayment of rent cases	In all residential eviction cases
Rent Must Be Paid Into Registry	Only in nonpayment of rent cases appealed by appeal bond or Statement of Inability	In all residential eviction cases, regardless of method of appeal

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Counting Days for Filing w/Court or Paying Rent Into Registry	Extends to next day if court closes before 5	Extends to next day if final day is a holiday (even if court open) or court closes for all or part of the day.
Determining Amount of Rent Paid Into Registry	Rental agreement	Rental agreement, or if there isn't one, greater of \$250 or fair market value
Tenant Affirmation to Appeal	None	Must swear a good faith belief in a meritorious defense and that is not for purpose of delay (court does not determine if this is true or not)
When to Transmit Case to County Court	Law is silent	As soon as rent is paid into registry, or if not paid then no earlier than 4p on the 6 th day and no later than 4p on the 10 th day after appeal
Pay County Court Filing Fees on Appeal	Within 20 days of notification by county clerk	Within 7 days of notification by county clerk
Plenary Power to Modify/Vacate Judgment	Law is silent	Until an appeal is perfected or the day after the appeal is due.
Who May Execute Writ of Possession	Constable or sheriff	If not served within 5 business days, plaintiff may ask another LEO trained in civil process to serve

This is a summary of changes made by SB 38, and the changes to the Texas Rules of Civil Procedure, which go into effect for eviction suits filed on or after January 1, 2026. This is just a summary, for full information please review the legislative update materials and the text of SB 38 and the Rules of Civil Procedure.