PROPERTY CODE

TITLE 5. EXEMPT PROPERTY AND LIENS

SUBTITLE B. LIENS

CHAPTER 54. LANDLORD'S LIENS

SUBCHAPTER A. AGRICULTURAL LANDLORD'S LIEN

Sec. 54.001. LIEN. A person who leases land or tenements at will or for a term of years has a preference lien for rent that becomes due and for the money and the value of property that the landlord furnishes or causes to be furnished to the tenant to grow a crop on the leased premises and to gather, store, and prepare the crop for marketing.

Acts 1983, 68th Leg., p. 3557, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.002. PROPERTY TO WHICH LIEN ATTACHES. (a) Except as provided by Subsections (b) and (c), the lien attaches to:

(1) the property on the leased premises that the landlord furnishes or causes to be furnished to the tenant to grow a crop on the leased premises; and

(2) the crop grown on the leased premises in the year that the rent accrues or the property is furnished.

(b) If the landlord provides everything except labor, the lien attaches only to the crop grown in the year that the property is furnished.

(c) The lien does not attach to the goods of a merchant, trader, or mechanic if the tenant sells and delivers the goods in good faith in the regular course of business.

(d) A law exempting property from forced sale does not apply to a lien under this subchapter on agricultural products, animals, or tools.

Acts 1983, 68th Leg., p. 3557, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.003. EXCEPTIONS. The lien does not arise if:

(1) a tenant provides everything necessary to cultivate the leased premises and the landlord charges rent of more than one-third of the value of the grain and one-fourth of the value

of the cotton grown on the premises; or

(2) a landlord provides everything except the labor and directly or indirectly charges rent of more than one-half of the value of the grain and cotton grown on the premises.

Acts 1983, 68th Leg., p. 3558, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.004. DURATION OF LIEN. The lien exists while the property to which it is attached remains on the leased premises and until one month after the day that the property is removed from the premises. If agricultural products to which the lien is attached are placed in a public or bonded warehouse regulated by state law before the 31st day after the day that they are removed from the leased premises, the lien exists while they remain in the warehouse.

Acts 1983, 68th Leg., p. 3558, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.005. REMOVAL OF PROPERTY. (a) If an advance or rent is unpaid, a tenant may not without the landlord's consent remove or permit the removal of agricultural products or other property to which the lien is attached from the leased premises.

(b) If agricultural products subject to the lien are removed with the landlord's consent from the leased premises for preparation for market, the lien continues to exist as if the products had not been removed.

Acts 1983, 68th Leg., p. 3558, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.006. DISTRESS WARRANT. (a) The person to whom rent or an advance is payable under the lease or the person's agent, attorney, assign, or other legal representative may apply to an appropriate justice of the peace for a distress warrant if the tenant:

(1) owes any rent or an advance;

(2) is about to abandon the premises; or

(3) is about to remove the tenant's property from the premises.

(b) The application for a warrant must be filed with a justice of the peace:

(1) in the precinct in which the leasehold is located or in which the property subject to the landlord's lien is located; or

(2) who has jurisdiction of the cause of action.

Acts 1983, 68th Leg., p. 3558, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1993, 73rd Leg., ch. 48, Sec. 9, eff. Sept. 1, 1993.

Sec. 54.007. JUDGMENT ON REPLEVIN BOND. If a final judgment is rendered against a defendant who has replevied property seized under a distress warrant, the sureties on the defendant's replevy bond are also liable under the judgment, according to the terms of the bond.

Acts 1983, 68th Leg., p. 3559, ch. 576, Sec. 1, eff. Jan. 1, 1984.

SUBCHAPTER B. BUILDING LANDLORD'S LIEN

Sec. 54.021. LIEN. A person who leases or rents all or part of a building for nonresidential use has a preference lien on the property of the tenant or subtenant in the building for rent that is due and for rent that is to become due during the current 12-month period succeeding the date of the beginning of the rental agreement or an anniversary of that date.

Acts 1983, 68th Leg., p. 3559, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1985, 69th Leg., ch. 200, Sec. 2, eff. Aug. 26, 1985.

Sec. 54.022. COMMERCIAL BUILDING. (a) The lien is unenforceable for rent on a commercial building that is more than six months past due unless the landlord files a lien statement with the county clerk of the county in which the building is located.

(b) The lien statement must be verified by the landlord or the landlord's agent or attorney and must contain:

(1) an account, itemized by month, of the rent for which the lien is claimed;

(2) the name and address of the tenant or subtenant, if any;

(3) a description of the leased premises; and

(4) the beginning and termination dates of the lease.

(c) Each county clerk shall index alphabetically and record the rental lien statements filed in the clerk's office.

Acts 1983, 68th Leg., p. 3559, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.023. EXEMPTIONS. This subchapter does not affect a statute exempting property from forced sale.

Acts 1983, 68th Leg., p. 3560, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.024. DURATION OF LIEN. The lien exists while the tenant occupies the building and until one month after the day that the tenant abandons the building.

Acts 1983, 68th Leg., p. 3560, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.025. DISTRESS WARRANT. The person to whom rent is payable under a building lease or the person's agent, attorney, assign, or other legal representative may apply to the justice of the peace in the precinct in which the building is located for a distress warrant if the tenant:

(1) owes rent;

(2) is about to abandon the building; or

(3) is about to remove the tenant's property from the building.

Acts 1983, 68th Leg., p. 3560, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1993, 73rd Leg., ch. 48, Sec. 10, eff. Sept. 1, 1993.

SUBCHAPTER C. RESIDENTIAL LANDLORD'S LIEN

Sec. 54.041. LIEN. A landlord of a single or multifamily residence has a lien for unpaid rent that is due. The lien attaches to nonexempt property that is in the residence or that the tenant has stored in a storage room.

Acts 1983, 68th Leg., p. 3560, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.042. EXEMPTIONS. A lien under this subchapter does not attach to:

(1) wearing apparel;

(2) tools, apparatus, and books of a trade or profession;

(3) schoolbooks;

(4) a family library;

(5) family portraits and pictures;

(6) one couch, two living room chairs, and a dining table and chairs;

(7) beds and bedding;

(8) kitchen furniture and utensils;

(9) food and foodstuffs;

(10) medicine and medical supplies;

(11) one automobile and one truck;

(12) agricultural implements;

(13) children's toys not commonly used by adults;

(14) goods that the landlord or the landlord's agent knows are owned by a person other than the tenant or an occupant of the residence; and

(15) goods that the landlord or the landlord's agent knows are subject to a recorded chattel mortgage or financing agreement.

Acts 1983, 68th Leg., p. 3560, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1985, 69th Leg., ch. 305, Sec. 1, eff. Aug. 26, 1985.

Sec. 54.043. ENFORCEABILITY OF CONTRACTUAL PROVISIONS. (a) A contractual landlord's lien is not enforceable unless it is underlined or printed in conspicuous bold print in the lease agreement.

(b) A provision of a lease that purports to waive or diminish a right, liability, or exemption of this subchapter is void to the extent limited by this subchapter.

Acts 1983, 68th Leg., p. 3561, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 54.044. SEIZURE OF PROPERTY. (a) The landlord or the landlord's agent may not seize exempt property and may seize nonexempt property only if it is authorized by a written lease and

can be accomplished without a breach of the peace.

(b) Immediately after seizing property under Subsection (a) of this section, the landlord or the landlord's agent shall leave written notice of entry and an itemized list of the items removed. The notice and list shall be left in a conspicuous place within the dwelling. The notice must state the amount of delinquent rent and the name, address, and telephone number of the person the tenant may contact regarding the amount owed. The notice must also state that the property will be promptly returned on full payment of the delinquent rent.

(c) Unless authorized in a written lease, the landlord is not entitled to collect a charge for packing, removing, or storing property seized under this section.

(d) If the tenant has abandoned the premises, the landlord or the landlord's agent may remove its contents.

Acts 1983, 68th Leg., p. 3561, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1985, 69th Leg., ch. 305, Sec. 1, eff. Aug. 26, 1985.

Sec. 54.045. SALE OF PROPERTY. (a) Property seized under Section 54.044 may not be sold or otherwise disposed of unless the sale or disposition is authorized in a written lease.

(b) Before selling seized property, the landlord or the landlord's agent must give notice to the tenant not later than the 30th day before the date of the sale. The notice must be sent to the tenant by both first class mail and certified mail, return receipt requested, at the tenant's last known address. The notice must contain:

(1) the date, time, and place of the sale;

(2) an itemized account of the amount owed by the tenant to the landlord; and

(3) the name, address, and telephone number of the person the tenant may contact regarding the sale, the amount owed, and the right of the tenant to redeem the property under Subsection (e) of this section.

(c) A sale under this section is subject to a recorded chattel mortgage or financing statement. The property shall be

sold to the highest cash bidder. Proceeds from the sale shall be applied first to delinquent rents and, if authorized by the written lease, reasonable packing, moving, storage, and sale costs.

(d) Any sale proceeds remaining after payment of the amounts authorized in Subsection (c) of this section shall be mailed to the tenant at the tenant's last known address not later than the 30th day after the date of the sale. The landlord shall provide the tenant with an accounting of all proceeds of the sale not later than the 30th day after the date on which the tenant makes a written request for the accounting.

(e) The tenant may redeem the property at any time before the property is sold by paying to the landlord or the landlord's agent all delinquent rents and, if authorized in the written lease, all reasonable packing, moving, storage, and sale costs.

Added by Acts 1985, 69th Leg., ch. 305, Sec. 1, eff. Aug. 26, 1985.

Sec. 54.046. VIOLATION BY LANDLORD. If a landlord or the landlord's agent wilfully violates this subchapter, the tenant is entitled to:

(1) actual damages, return of any property seized that has not been sold, return of the proceeds of any sale of seized property, and the sum of one month's rent and $1,000, less any amount for which the tenant is liable; and

(2) reasonable attorney's fees.

Acts 1983, 68th Leg., p. 356, ch. 5761, Sec. 1, eff. Jan. 1, 1984. Renumbered and amended by Acts 1985, 69th Leg., ch. 305, Sec. 1, eff. Aug. 26, 1985.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1198 (S.B. 1367), Sec. 2, eff. January 1, 2016.

Sec. 54.047. OTHER RIGHTS NOT AFFECTED. This subchapter does not affect or diminish any other rights or obligations arising under common law or any statute.

Added by Acts 1985, 69th Leg., ch. 305, Sec. 1, eff. Aug. 26, 1985.

Sec. 54.048. TENANT MAY REPLEVY. At any time before

judgment in a suit for unpaid rent, the tenant may replevy any of the property that has been seized, if the property has not been claimed or sold, by posting a bond in an amount approved by the court, payable to the landlord, and conditioned that if the landlord prevails in the suit, the amount of the judgment rendered and any costs assessed against the tenant shall be first satisfied, to the extent possible, out of the bond.

Added by Acts 1987, 70th Leg., ch. 266, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 54.901. DISPOSAL OF CERTAIN MOTOR VEHICLES SUBJECT TO LIEN. (a) Notwithstanding any other law, a person authorized to dispose of property for which a lien under this chapter is attached may dispose of the property in accordance with Subchapter D, Chapter 683, Transportation Code, if:

(1) the property is a motor vehicle; and

(2) the person determines that:

(A) the vehicle's only residual value is as a source of parts or scrap metal; or

(B) it is not economical to dispose of the vehicle at a public sale.

(b) If a person disposes of the property under Subsection (a), the person shall apply the fair market value of the motor vehicle to the charges due to the person.

Added by Acts 2017, 85th Leg., R.S., Ch. 1061 (H.B. 3131), Sec. 3, eff. September 1, 2017.