



# CITY OF HOUSTON

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April 2, 2023

The Honorable Oscar Longoria  
Chairman, House Committee on Business & Industry  
P.O. Box 2910  
Austin, Texas 78768

Re: Opposing House Bill 2035

Dear Chairman Longoria and Members of the Committee,

The City of Houston is in opposition to House Bill 2035 because it prevents local government from taking any meaningful action to protect renters, most particularly residential renters, from eviction when experiencing the significant effects created by situations like the COVID-19 pandemic.

During the last 3 years, we all witnessed the devastating toll the COVID-19 pandemic took on the public health, public safety, and economy, especially during the early stages of the pandemic. It was very evident nationwide that homelessness would exacerbate the overwhelming effects of the pandemic. Therefore, the CARES Act included a moratorium on evictions of tenants in rental properties that received federal funding or have federal government-backed mortgages. However, this federal action only covered certain properties, leaving many renters without any protection from eviction.

The deterioration of Texas' public health, public safety, and economy were all intertwined in a manner that required local governments to step up to prevent eviction and possible homelessness through legal action. To fill in the gaps left by the federal eviction moratorium, cities such as Houston, Dallas, Austin, and San Marcos adopted laws that enabled residential renters to remain housed when facing eviction for failure to make rent payments. Texas municipalities relied on the term "applicable law" in Section 24.005(e) of the Texas Property Code, which states:

*"If the lease or applicable law requires the landlord to give a tenant an opportunity to respond to a notice of proposed eviction, a notice to vacate may not be given until the period provided for the tenant to respond to the eviction notice has expired."*

By cities adopting ordinances requiring a landlord to provide a notice of proposed eviction before giving a renter a notice to vacate, renters were provided additional time to improve their financial situations by regaining employment, receiving rental assistance from local governments, and other available actions. For many residential renters, receiving rental assistance from the City of Houston was their primary source of financial stability. The City of Houston initially received over \$23 million in federal CARES Act funds, with a large portion of those funds earmarked for rental assistance. However, from an administrative standpoint, a considerable amount of time transpired from the time the City of Houston was awarded CARES Act funds to the time the funds were actually applied towards a tenant's rent payment. A city's notice of proposed eviction requirement helps close the gap in time so that a city can receive federal funds and then provide rental assistance to a renter prior to eviction.

By amending “applicable law” to “applicable *federal* law,” House Bill 2035 would render local governments powerless in the event a situation ever rises to the levels of the COVID-19 pandemic again. Local governments could not provide a grace period, which a notice of proposed eviction does prior to eviction. For local governments, reliance on “applicable law” in Section 24.005(e) was prompted by extraordinary circumstances, and that reliance proved to be beneficial as homelessness was prevented significantly.

Furthermore, to ensure that local governments remain powerless (and renters ultimately helpless), House Bill 2035 would add a new section to Chapter 24 of the Property Code by preventing local governments from adopting or enforcing ordinances or other measures that prohibit, restrict, or delay delivery of a notice to vacate, filing an eviction suit, or otherwise relate to an eviction suit. In the same vein as the revision to Section 24.005(e), this new section of Chapter 24 would completely weaken the power of local governments during extraordinary times such as a pandemic. Also, with significant increases in the current housing market all across the state, it remains crucial for the City of Houston and local governments to have options and tools necessary to prevent evictions of renters due to unforeseen costs.

Moreover, the broad language House Bill 2035 employs to limit local control could easily have unanticipated applications and consequences entirely apart from the residential eviction context described above. For example, during litigation under Chapter 125 of the Civil Practice & Remedies Code, the City of Houston will often negotiate with defendant property owners, seeking an agreement that includes terms speaking to eviction of the current violating tenant, as well as prospective eviction action for any future violations. Chapter 24 of the Property Code does not apply exclusively to residential tenancies, so Section 24.0041(2), as drafted in House Bill 2035, would preclude a municipality or county from utilizing a key legal tool in a cause of action specifically authorized by statute. This and other unpredictable repercussions in disparate contexts could be implicated in a manner that serves neither the purpose of the bill nor a city’s residents. Incorporating such broad, sweeping language carries with it this inherent risk.

As the City of Houston and other local governments continue to recover from the effects of the COVID-19 pandemic and combat the housing market, it is important that local governments remain as strong as possible during trying times rather lessen their power, which will hurt the people these governments are established to protect.

Thank you for your time and opportunity to share the City of Houston’s opposition of House Bill 2035.

Sincerely,

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