

- SUBJECT:** Allowing cities to provide containers for property of evicted persons
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 7 ayes — Oliveira, Simmons, Collier, Fletcher, Rinaldi, Romero, Villalba
0 nays
- WITNESSES:** For — Brian England, City of Garland; John Willis; (*Registered, but did not testify*: David Mintz, Texas Apartment Association; Nate Walker, Texas Family Council)

Against — None
- BACKGROUND:** Property Code, sec. 24.0061 provides the process for a landlord to take possession of a property after a successful eviction. After a court has issued a writ of possession, a police officer is required to post a written warning that the writ has been issued. The warning must provide a date on or after which the writ will be executed, which cannot be sooner than 24 hours after the warning has been posted.

To execute the writ of possession, the officer delivers possession of the premises to the landlord and instructs the tenants to leave, or if they do not comply, physically removes them. The officer also instructs the tenant to remove, or to allow another authorized person to remove, the tenant's personal property from the premises immediately. The property removed from the premises and placed outside at a nearby location cannot block a road or sidewalk and cannot be placed outside while it is raining, sleeting, or snowing.
- DIGEST:** CSHB 1853 would allow municipalities to provide, without charge to the landlord or to the owner of personal property removed from a rental unit, a portable, closed container to store the personal property after an eviction. The municipality could dispose of the contents of the container by any lawful means if the owner of the property did not remove it from the container within a reasonable time after the property was placed in the

container.

**SUPPORTERS
SAY:**

CSHB 1853 would protect tenants' personal property from looting and weather damage by allowing cities to provide containers for belongings of people who were evicted. Under current state law, a writ of possession can result in a pile of personal property, which may include family heirlooms, prescription medicine, and electronics, being left on the curb. Bystanders often will rummage through tenants' personal property, scattering debris across the lawn and street, and what is not taken may be left in the rain and sun for weeks.

The city of Garland, during the height of the recession in 2009, passed an ordinance to address looting and other issues associated with frequent evictions. Garland typically uses a 30-yard, roll-off container but can use a smaller or larger container if the need arises. The containers are used solely for evictions and have large notice stickers stating that the contents of the container belong to the tenant and that it is a criminal offense for anyone but the owner to remove the contents. The city of Garland typically keeps the containers in place for 24 to 36 hours before taking the container and its contents to the landfill. The containers are not locked in order to allow the owner to access their belongings at any time. CSHB 1853 would establish a state law that explicitly would allow cities to adopt similar policies.

CSHB 1853 is permissive and allows municipalities to pass an ordinance like Garland's if they so choose. Because the bill is permissive, the notice and time-frame requirements are left to individual municipalities to decide what would work best for their community.

**OPPONENTS
SAY:**

CSHB 1853 should contain more specific notice requirements for tenants. While the bill is well intentioned and likely would benefit tenants, landlords, and neighborhoods, nothing in the bill would clarify what constituted a "reasonable time" before taking away a tenant's personal property or how a tenant could find out when the container would be removed from the property. If 24 hours were considered a "reasonable time," tenants could come home to find their belongings in a container,

leave to get help moving them, and then return to find that the container had been taken to the landfill.

NOTES:

CSHB 1853 differs from the bill as introduced in that the substitute specifies that the landlord, in addition to the owner of personal property, would not be charged for a container in which the property was placed.