

UNLAWFUL SEIZURE OF PROPERTY

DATE: _____

ATTENTION: _____ (LANDLORD/AGENT/MANAGER)

I, _____, am a tenant at _____
_____. On _____ (DATE SEIZED)

you or your agent unlawfully seized my property in violation of Subchapter C of Chapter 54 of the Texas Property Code. Unless these items are released immediately, I will pursue the legal remedies provided for in section 54.046 of this statute.

SIGNED: _____

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. 54.045. 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 willfully 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 one month's rent or \$500, whichever is greater, 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.

Section 2306.6736, Government Code

Notwithstanding any other law, a development owner of a development supported with a housing tax credit allocation may not seize or threaten to seize the personal property of any person residing in the development except by judicial process unless the resident has abandoned the premises. Each development owner shall include a conspicuous provision in the lease agreement prohibiting the owner from engaging in such practices.