

# **INFORMATION FOR POST-JUDGMENT/APPEAL EVICTION SUIT**

## **Please read carefully before completing the Petition and filing the Eviction Suit**

### **1. JUDGMENT**

- If the plaintiff prevails, the court will enter judgment for the plaintiff for possession of the premises, and on request of the plaintiff and payment of required fees, will award a writ of possession. The writ of possession cannot issue before the 6th day after the date the judgment for possession is signed.
- If the tenant prevails, the court will give judgment for the tenant against the landlord for costs. TRCP 510.8

### **2. WRIT OF POSSESSION**

- A landlord who prevails in an eviction suit is entitled to a judgment for possession of the premises and a writ of possession. "Premises" includes the unit that is occupied or rented and any outside area or facility that the tenant is entitled to use under a written lease or oral rental agreement, or that is held out for the use of tenants generally. See Section 24.0053, Texas Property Code.
- The officer may not require the landlord to store the property.
- A writ of possession cannot be issued more than 60 days after a judgment for possession is signed, and a writ of possession cannot be executed after the 90th day after a judgment for possession is signed. TRCP 510.8
- See Section 24.0061 Texas Property Code and TRCP 510.8 for more information on Writ of Possession.

### **3. APPEAL**

- If the Justice Court enters judgment for the landlord in a residential eviction case based on nonpayment of rent, the Justice Court shall determine the amount of rent to be paid each rental pay period during the pendency of the appeal and note that amount in the judgment.
- Calculation of time, TRCP 500.5, if the last day is a Saturday, Sunday, or legal holiday, the time period is extended to the next day that is not a Saturday, Sunday, or Legal Holiday; and if the last day for filing falls on a day during which court is closed before 5:00 pm, the time period is extended to the court's next business day.
- Either party may appeal from a final judgment in an Eviction Case within 5 days after the judgment is signed by filing a bond, making a cash deposit, or filing with the Justice Court a Sworn Statement of Inability to Pay. The Court will set the amount of the bond or cash deposit based on damages, if any, for withholding or defending possession of the premises during the appeal, loss of rentals during the appeal, and attorney fees, if any. TRCP 510.11
- The bond or cash deposit must be payable to the appellee and must be conditioned on the appellant's prosecution of the appeal to effect and the payment of any judgment and all costs rendered against the appellee on appeal. A party filing a bond or making a cash deposit must serve written notice of the appeal on all other parties within 5 days of filing the bond or making the cash deposit.
- A Sworn Statement of Inability to Pay may be contested within 5 days after the opposing party receives notice that the Sworn Statement of Inability to Pay was filed. If the contest is sustained, within 5 days of the date of the Justice Court's order sustaining the contest, the appellant may appeal the Justice Court's decision to the County Court at Law by filing notice of the appeal of the contest with the Justice Court. The County Court at Law must set the contest for a hearing within 5 days. If the County Court at Law sustains the contest, within 1 business day, the appellant must file with the Justice Court either an appeal bond or make a cash deposit. TRCP 510.9

#### **Payment of Rent in Nonpayment of Rent Appeals** (See also Section 24.0053 and Section 24.0054, Texas Property Code)

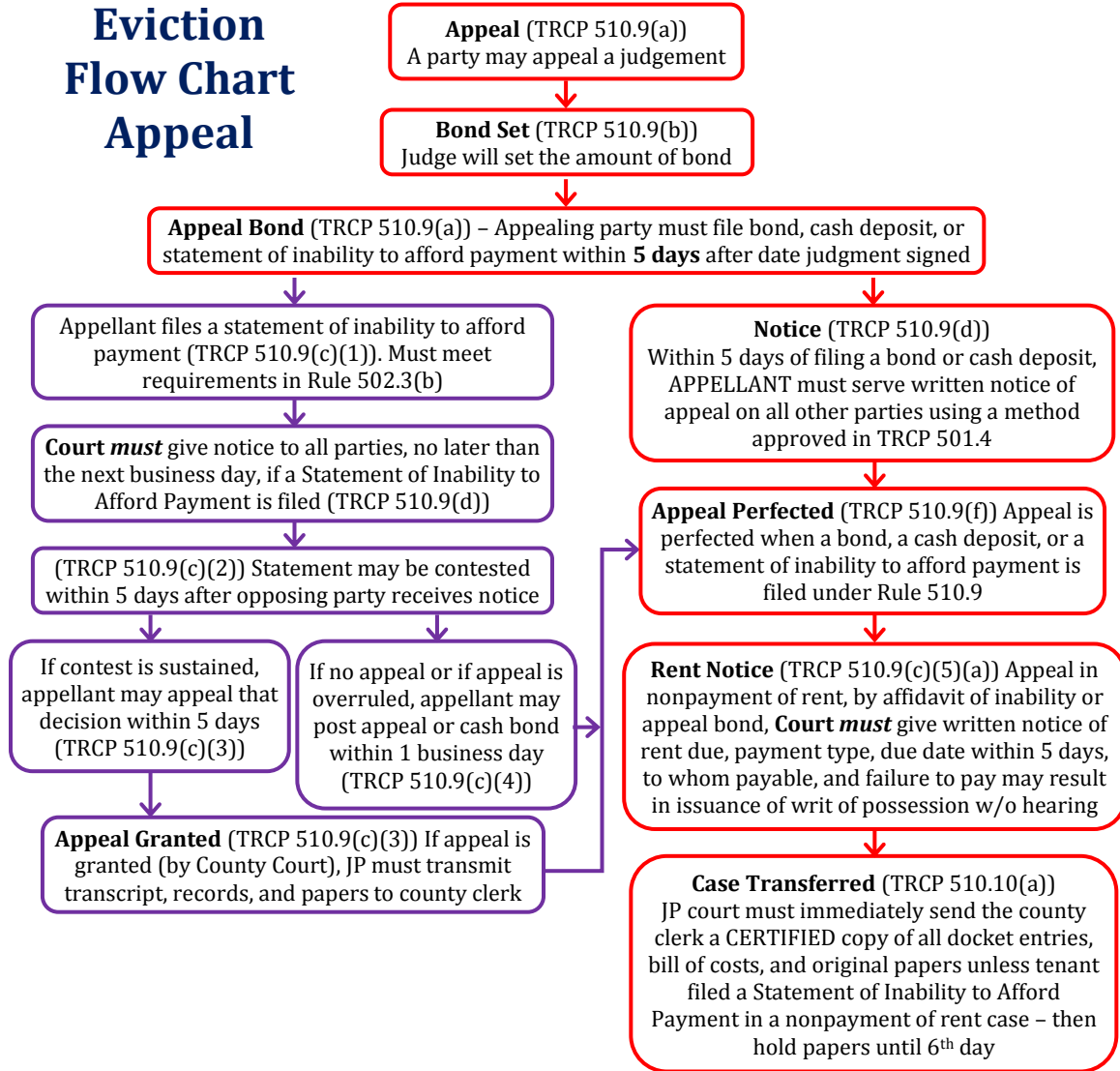
- If a defendant appeals an eviction for nonpayment of rent by filing a Sworn Statement of Inability to Pay, the Justice Court will give the tenant a written notice at the time the Sworn Statement of Inability to Pay is filed that notifies the tenant (1) of the amount of the initial deposit of rent that the tenant must pay into the registry of the Justice Court; (2) whether the initial deposit of rent must be paid in cash, cashier's check, or money order, and to whom the cashier's check or money order must be made payable; (3) the calendar date within 5 days of the date the Sworn Statement of Inability to Pay is filed, and if applicable, the time, by which the initial deposit must be paid; and (4) a statement that failure to pay the required amount into the Justice Court registry by the date and time specified may result in the issuance of a writ of possession without hearing.

The defendant appealing by Sworn Statement of Inability to Pay may remain in possession of the premises during the pendency of the appeal by (1) making the initial deposit of rent into the Justice Court registry within 5 days of the date the defendant files the Sworn Statement of Inability to Pay, and (2) paying the rent within 5 days of the rental due date under the rental agreement into the registry of the County Court at Law.

- An Eviction Case appealed to the County Court at Law will be tried at any time after the expiration of 8 days after the transcript is filed. If the defendant did not file a written answer in the Justice Court, the defendant must file a written answer in the County Civil Courts at Law within 8 days after the transcript is filed in the County Civil Courts at Law. Failure to file a written answer in the County Civil Courts at Law will result in the entry of a judgment by default. TRCP 510.12

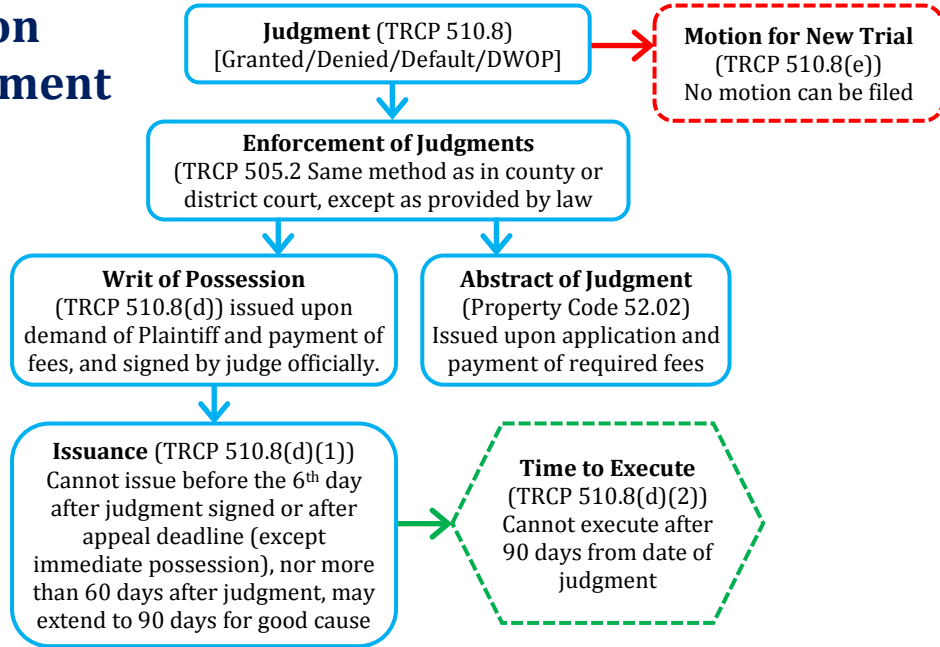
# Eviction Flow Chart (Appeal)

## Eviction Flow Chart Appeal



# Eviction Flow Chart (Post-Judgment)

## Eviction Post Judgment



CAUSE NO. \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF

v.

\_\_\_\_\_  
DEFENDANT

§  
§  
§  
§  
§  
§  
§

IN THE JUSTICE COURT

PRECINCT NO. 3

ORANGE COUNTY, TEXAS

**APPEAL BOND - PLAINTIFF**

**WHEREAS**, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the Justice Court of Precinct 3, Orange County, Texas, a judgment was issued in the above styled cause from which Plaintiff desires to appeal to the County Court of Orange County, Texas;

- THEREFORE**, we, Plaintiff and \_\_\_\_\_ and \_\_\_\_\_ as surety(s), acknowledge ourselves bound to pay the Defendant the amount of:
  - \$ 500.00. (Small Claims or Debt Claim); or
  - \$ \_\_\_\_\_, which is the amount determined by the court including consideration of Tex. R. Civ. P. 510.11. (Eviction)

We acknowledge the bond is conditioned that this cause shall be prosecuted through appeal, and shall pay off and satisfy any judgment determined on appeal.

\_\_\_\_\_  
Surety's Signature

\_\_\_\_\_  
Surety's Signature

- THEREFORE**, Plaintiff, in lieu of obtaining a surety, elects to deposit current money of the United States with the Court. Defendant acknowledges him or herself bound to pay the Defendant the amount of:
  - \$ 500.00. (Small Claims or Debt Claim); or
  - \$ \_\_\_\_\_, which is the amount determined by the court including consideration of Tex. R. Civ. P. 510.11. (Eviction)

I acknowledge the bond is conditioned that this cause shall be prosecuted through appeal, and shall pay off and satisfy any judgment determined on appeal. Plaintiff has deposited this amount with the Court.

**WITNESSED** this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Plaintiff's/Appellant's Signature

**ISSUED AND SIGNED** this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUSTICE OF THE PEACE, PRECINCT 3  
ORANGE COUNTY, TEXAS

CAUSE NO. \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF

v.

\_\_\_\_\_  
DEFENDANT

§  
§  
§  
§  
§  
§  
§

IN THE JUSTICE COURT

PRECINCT NO. 3

ORANGE COUNTY, TEXAS

**DEFENDANT'S APPEAL BOND**

**WHEREAS**, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the Justice Court of Precinct 3, Orange County, Texas, a judgment was issued in the above styled cause from which Defendant desires to appeal to the County Court of Orange County, Texas;

- THEREFORE**, we, Defendant and \_\_\_\_\_ and \_\_\_\_\_ as surety(s), acknowledge ourselves bound to pay the Plaintiff the amount of:
  - \$ \_\_\_\_\_, double the judgment. (Small Claims or Debt Claim);or
  - \$ \_\_\_\_\_, which is the amount determined by the court including consideration of Tex. R. Civ. P. 510.11. (Eviction)

We acknowledge the bond is conditioned that this cause shall be prosecuted through appeal, and shall pay off and satisfy any judgment determined on appeal.

\_\_\_\_\_  
Surety's Signature

\_\_\_\_\_  
Surety's Signature

- THEREFORE**, Defendant, in lieu of obtaining a surety, elects to deposit current money of the United States with the Court. Defendant acknowledges him or herself bound to pay the Plaintiff the amount of:
  - \$ \_\_\_\_\_, double the judgment. (Small Claims or Debt Claim);or
  - \$ \_\_\_\_\_, which is the amount determined by the court including consideration of Tex. R. Civ. P. 510.11. (Eviction)

I acknowledge the bond is conditioned that this cause shall be prosecuted through appeal, and shall pay off and satisfy any judgment determined on appeal. Defendant has deposited this amount with the Court.

**WITNESSED** this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Defendant's Signature

**ISSUED AND SIGNED** this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUSTICE OF THE PEACE, PRECINCT 3  
ORANGE COUNTY, TEXAS

**NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA**



Cause Number: \_\_\_\_\_  
*(The Clerk's office will fill in the Cause Number when you file this form)*

Plaintiff: \_\_\_\_\_  
*(Print first and last name of the person filing the lawsuit.)*

And

In the \_\_\_\_\_ *(check one):*  
*Court*  District Court  
*Number*  County Court / County Court at Law  
 Justice Court

Defendant: \_\_\_\_\_ Texas  
*(Print first and last name of the person being sued.)* \_\_\_\_\_  
*County*

**Statement of Inability to Afford Payment of Court Costs or an Appeal Bond**

**1. Your Information**

My full legal name is: \_\_\_\_\_ My date of birth is: \_\_\_\_/\_\_\_\_/\_\_\_\_  
*First Middle Last Month/Day/Year*

My address is: *(Home)* \_\_\_\_\_  
*(Mailing)* \_\_\_\_\_

My phone number: \_\_\_\_\_ My email: \_\_\_\_\_

About my **dependents**: "The people who depend on me financially are listed below."

<i>Name</i>	<i>Age</i>	<i>Relationship to Me</i>
1 _____	_____	_____
2 _____	_____	_____
3 _____	_____	_____
4 _____	_____	_____
5 _____	_____	_____
6 _____	_____	_____

**2. Are you represented by Legal Aid?**

I am being represented in this case for free by an attorney who works for a legal aid provider or who received my case through a legal aid provider. I have attached the certificate the legal aid provider gave me as 'Exhibit: Legal Aid Certificate.

**-or-**

I asked a legal-aid provider to represent me, and the provider determined that I am financially eligible for representation, but the provider could not take my case. I have attached documentation from legal aid stating this.

**or-**

I am not represented by legal aid. I did not apply for representation by legal aid.

**3. Do you receive public benefits?**

I do not receive needs-based public benefits. - or -

I receive these **public benefits/government entitlements** that are based on indigency:

*(Check ALL boxes that apply and attach proof to this form, such as a copy of an eligibility form or check.)*

- Food stamps/SNAP       TANF     Medicaid     CHIP     SSI     WIC     AABD
- Public Housing or Section 8 Housing     Low-Income Energy Assistance     Emergency Assistance
- Telephone Lifeline       Community Care via DADS       LIS in Medicare ("Extra Help")
- Needs-based VA Pension     Child Care Assistance under Child Care and Development Block Grant
- County Assistance, County Health Care, or General Assistance (GA)
- Other: \_\_\_\_\_

**4. What is your monthly income and income sources?**

"I get this monthly income:

\$ \_\_\_\_\_ in monthly wages. I work as a \_\_\_\_\_ for \_\_\_\_\_.  
Your job title Your employer

\$ \_\_\_\_\_ in monthly unemployment. I have been unemployed since (date) \_\_\_\_\_.

\$ \_\_\_\_\_ in public benefits per month.

\$ \_\_\_\_\_ from other people in my household each month: (List only if other members contribute to your household income.)

\$ \_\_\_\_\_ from  Retirement/Pension  Tips, bonuses  Disability  Worker's Comp  
 Social Security  Military Housing  Dividends, interest, royalties  
 Child/spousal support  
 My spouse's income or income from another member of my household (If available)

\$ \_\_\_\_\_ from other jobs/sources of income. (Describe) \_\_\_\_\_

\$ \_\_\_\_\_ is my **total monthly** income.

**5. What is the value of your property?**

"My property includes:	Value*
Cash	\$ _____
Bank accounts, other financial assets	\$ _____
_____	\$ _____
_____	\$ _____
Vehicles (cars, boats) <small>(make and year)</small>	\$ _____
_____	\$ _____
_____	\$ _____
Other property (like jewelry, stocks, land, another house, etc.)	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
<b>Total value of property</b>	<b>→ \$ _____</b>

**6. What are your monthly expenses?**

"My monthly expenses are:	Amount
Rent/house payments/maintenance	\$ _____
Food and household supplies	\$ _____
Utilities and telephone	\$ _____
Clothing and laundry	\$ _____
Medical and dental expenses	\$ _____
Insurance (life, health, auto, etc.)	\$ _____
School and child care	\$ _____
Transportation, auto repair, gas	\$ _____
Child / spousal support	\$ _____
Wages withheld by court order	\$ _____
Debt payments paid to: <small>(List)</small>	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
<b>Total Monthly Expenses</b>	<b>→ \$ _____</b>

\*The value is the amount the item would sell for less the amount you still owe on it, if anything.

**7. Are there debts or other facts explaining your financial situation?**

"My debts include: (List debt and amount owed) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_"

(If you want the court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts.") Check here if you attach another page.

**8. Declaration**

I declare under penalty of perjury that the foregoing is true and correct. I further swear:

- I cannot afford to pay court costs.
- I cannot furnish an appeal bond or pay a cash deposit to appeal a justice court decision.

My name is \_\_\_\_\_ . My date of birth is : \_\_\_\_ / \_\_\_\_ / \_\_\_\_.

My address is \_\_\_\_\_  
Street City State Zip Code Country

\_\_\_\_\_ signed on \_\_\_\_ / \_\_\_\_ / \_\_\_\_ in \_\_\_\_\_ County, \_\_\_\_\_  
Signature Month/Day/Year county name State