

By: Barrientos

S.B. No. 44

A BILL TO BE ENTITLED

AN ACT

relating to property tax relief for residential tenants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 1, Tax Code, is amended by adding Chapter 61 to read as follows:

CHAPTER 61. PROPERTY TAX RELIEF FOR RESIDENTIAL TENANTS

Sec. 61.001. PURPOSE. The purpose of this chapter is to ensure that residential rental tenants receive direct and immediate benefit from reductions in local school district ad valorem taxes until the benefit of that tax relief is fully reflected in rental rates through free market competition and that every residential landlord gives a monthly rent credit or rebate, at the landlord's option, to each tenant who is renting a residential dwelling unit in this state during 2006, 2007, and 2008.

Sec. 61.002. DEFINITIONS. In this chapter:

(1) "Landlord" means the owner, lessor, or sublessor of a dwelling unit, but does not include a manager or agent of the landlord unless the manager or agent purports to be the owner, lessor, or sublessor in a written or oral lease.

(2) "Lease" means a written or oral agreement between a landlord and tenant that establishes or modifies the terms, conditions, rules, or other provisions regarding the use and occupancy of a dwelling unit.

(3) "Multifamily rental dwelling property" means a

1 multiunit residential property with two or more rental dwelling
2 units. The term includes a duplex, apartment building, dormitory,
3 manufactured housing community, retirement center or community,
4 and assisted living center and any other multiunit rental
5 residential property subject to local school district ad valorem
6 taxes.

7 (4) "Rent" includes the total amount charged by a
8 landlord, or by a person on the landlord's behalf, for the use and
9 occupancy of a dwelling unit. The term does not include a
10 refundable security deposit.

11 (5) "Rental dwelling unit" means one or more rooms
12 rented for use as a permanent residence under a single lease to one
13 or more tenants.

14 (6) "Tenant" means an individual who is authorized by
15 a lease to occupy a dwelling to the exclusion of others other than
16 cotenants and who is obligated under the lease to pay rent.

17 Sec. 61.003. APPLICABILITY. (a) This chapter applies only
18 to a rental dwelling unit or multifamily rental dwelling property
19 that is subject to ad valorem taxation by a school district.

20 (b) This chapter does not apply to a temporary residential
21 tenancy created by a contract of sale under which the buyer is
22 entitled to occupy the property before closing or the seller is
23 entitled to occupy the property after closing for a term of not more
24 than 90 days.

25 Sec. 61.004. CREDIT OR REBATE TO TENANT OF LANDLORD'S
26 PROPERTY TAX SAVINGS. A landlord shall provide each of the
27 landlord's tenants with a monthly credit or rebate on the tenant's

1 rent to reflect a portion of the landlord's school district ad
2 valorem tax savings for 2006, 2007, and 2008.

3 Sec. 61.005. NOTICE BY CHIEF APPRAISERS. (a) On or before
4 December 1, 2005, or as soon as practicable after that date, the
5 chief appraiser of each appraisal district shall send to all
6 residential property owners a notice describing the requirements of
7 this chapter. The notice shall contain language substantially
8 similar to the following:

9 "Due to the property tax relief law approved by the 79th Texas
10 Legislature, residential landlords are required to pass along
11 school district ad valorem tax savings to their tenants under all
12 leases in effect as of January 1, 2006, and for all leases entered
13 into in 2006, 2007, and 2008. These savings must be provided to
14 tenants by giving a monthly rent credit or rebate that reflects a
15 portion of the property tax savings on school property taxes.
16 Failure to comply with this law could result in severe penalties,
17 including a civil penalty of \$100, treble damages, and attorney's
18 fees. Information on complying with this law is available by
19 contacting the (name, address, and telephone number of appraisal
20 district) or by contacting the Texas Comptroller of Public Accounts
21 by calling 1-800-252-5555."

22 (b) The notice required under Subsection (a) may be sent to
23 property owners as part of another communication sent by the
24 appraisal district under Section 31.01 and is not required to be
25 sent to property owners as a separate communication.

26 (c) In December 2005, each appraisal district shall place at
27 least one advertisement monthly in a newspaper of general

1 circulation in the county for which the appraisal district is
2 established. The advertisement shall be in 14-point or larger type
3 and contain language substantially similar to the language
4 prescribed by Subsection (a).

5 Sec. 61.006. TECHNICAL ASSISTANCE BY COMPTROLLER. (a) Not
6 later than December 1, 2005, the comptroller shall develop
7 materials in plain language to assist landlords in complying with
8 this chapter. The materials shall be printed in both English and
9 Spanish and copies shall be sent to each appraisal district on or
10 before December 15, 2005. A copy of the materials shall be provided
11 without cost to any property owner on request.

12 (b) The comptroller shall provide necessary technical
13 assistance to appraisal districts and landlords in complying with
14 this chapter.

15 Sec. 61.007. TAX SAVINGS CALCULATIONS BY LANDLORDS. (a)
16 For each year to which this chapter applies, a landlord shall
17 determine the monthly school district ad valorem tax savings
18 payable to the landlord's tenants as follows:

19 (1) the monthly rent credit or rebate for a
20 single-family rental dwelling unit is equal to 6.25 percent of the
21 difference between the amount of school district ad valorem taxes
22 imposed on the dwelling unit for the preceding year and the amount
23 of the school district ad valorem taxes that would have been imposed
24 on that dwelling unit for that year if the dwelling unit had been
25 taxed at a school district maintenance and operations tax rate of ___
26 cents plus the school district enrichment tax rate in that tax year
27 per \$100 of taxable value; and

1 (2) the monthly rent credit or rebate for a rental
2 dwelling unit in a multifamily rental dwelling property is equal to
3 6.25 percent of the difference between the amount of school
4 district ad valorem taxes imposed on the dwelling property for the
5 preceding year and the amount of the school district ad valorem
6 taxes that would have been imposed on that dwelling property for
7 that year if the dwelling property had been taxed at a school
8 district maintenance and operations tax rate of \$___ per \$100 of
9 taxable value, multiplied by the square footage in the tenant's
10 dwelling unit, and divided by the total net rentable square footage
11 of all rental dwelling units in the multifamily rental dwelling
12 property.

13 (b) The amount of the rent credit or rebate under Subsection
14 (a) shall be calculated on a per-dwelling-unit basis and not on a
15 per-tenant basis.

16 (c) If the amount of the rent credit or rebate calculated
17 under Subsection (a) is less than zero, the rent credit or rebate is
18 zero.

19 Sec. 61.008. DATE OF REQUIRED CREDIT OR REBATE. (a) If a
20 landlord gives a monthly credit to a tenant under this chapter, the
21 landlord shall give the credit on the due date for each month's
22 rent.

23 (b) If a landlord pays a monthly rent rebate to the tenant,
24 the landlord shall pay the rebate not later than the 10th day after
25 the date the tenant pays the entire rent due for the month. A
26 landlord is presumed to have timely paid a rebate if the rebate is
27 placed in the United States mail and postmarked on or before that

1 date.

2 (c) If the tenant's rent is payable weekly, the amount of
3 the weekly credit or rebate is equal to 1/52 of the credit or rebate
4 for the entire year.

5 Sec. 61.009. LANDLORD'S NOTICE TO TENANTS. (a) In
6 connection with each lease agreement for a rental dwelling unit
7 entered into before January 1, 2006, that has not terminated or
8 expired as of that date, the landlord shall provide a notice to each
9 tenant on or before January 5, 2006, in boldface, 14-point or larger
10 type, that substantially states the following:

11 "NOTICE OF TAX SAVINGS ON RENT

12 "Your current monthly rent on (insert unit number or street
13 address) is \$____ (insert amount of rent).

14 "Because of the property tax relief law passed by the 79th
15 Texas Legislature in 2005, the amount of school district property
16 taxes for your dwelling unit has been reduced by ____ (insert
17 percentage savings) percent for 2006. The property tax relief law
18 provides that the property owner must pass along tax savings to you
19 and other tenants until sufficient time has elapsed for the tax
20 relief to be fully reflected in rental rates through free market
21 competition.

22 "Accordingly, you will receive a rent credit (or rebate
23 check) of \$____ (insert monthly prorated amount) for the current
24 month of January and for each month thereafter until the date your
25 current lease expires or December 31, 2008, whichever date is
26 first. If the amount of taxes imposed on your dwelling unit is not
27 increased or decreased, the cumulative amount of property tax

1 savings that will be passed on to you during the term of your lease
2 as a result of the 2005 property tax relief legislation is projected
3 to be \$_____ (insert cumulative savings for the unit for the term of
4 the lease).

5 "This means the net rent you will be paying for this month and
6 each subsequent month under your current lease will be \$_____
7 (insert net rent rate), and your rent should also be lower if you
8 enter into a new lease for any rental dwelling unit in Texas any
9 time in 2006, 2007, or 2008, through the date your new lease term
10 expires or December 31, 2008, whichever date is earlier.

11 "If you have any questions about this new law, please contact
12 the _____ County Appraisal District at (insert address and main
13 phone number of the appraisal district established for the county
14 in which the rental dwelling unit is located)."

15 (b) In connection with each lease agreement for a rental
16 dwelling unit entered into in 2006, 2007, or 2008, the landlord
17 shall provide a notice to each tenant at the time the lease is
18 signed, in boldface, 14-point or larger type, that substantially
19 states the following:

20 "NOTICE OF TAX SAVINGS ON RENT

21 "Your current monthly rent on (insert unit number or street
22 address) is \$_____ (insert amount of rent).

23 "Because of the property tax relief law passed by the 79th
24 Texas Legislature in 2005, the amount of school district property
25 taxes for your dwelling unit has been reduced by _____ (insert
26 percentage savings) percent for 2006 (or 2007 or 2008). The
27 property tax relief law provides that the property owner must pass

1 along tax savings to you and other tenants until sufficient time has
2 elapsed for the tax relief to be fully reflected in rental rates
3 through free market competition.

4 "Accordingly, you will receive a rent credit (or rebate
5 check) of \$_____ (insert monthly prorated amount) for the current
6 month and for each month thereafter until the date your current
7 lease expires or December 31, 2008, whichever date is first. If the
8 amount of taxes imposed on your dwelling unit is not increased or
9 decreased, the cumulative amount of property tax savings that will
10 be passed on to you during the term of your lease as a result of the
11 2005 property tax relief legislation is projected to be \$_____
12 (insert cumulative savings for the unit for the term of the lease).

13 "This means the net rent you will be paying for this month and
14 each subsequent month under your current lease will be \$_____
15 (insert net rent rate), and your rent should also be lower if you
16 enter into a new lease for any rental dwelling unit in Texas any
17 time in 2006, 2007, or 2008, through the date your new lease term
18 expires or December 31, 2008, whichever date is earlier.

19 "If you have any questions about this new law, please contact
20 the _____ County Appraisal District at (insert address and main
21 phone number of the appraisal district established for the county
22 in which the rental dwelling unit is located)."

23 (c) The notice required by Subsections (a) and (b) shall be
24 translated and printed in English and Spanish. A notice provided by
25 a landlord under this section must be provided in both languages if
26 the rental dwelling unit is located in a county in which the
27 Hispanic population exceeds 25 percent of the total population of

1 that county according to the most recent federal census information
2 available.

3 Sec. 61.010. CREDIT OR REBATE FOR MULTIPLE TENANTS. If two
4 or more tenants are on a lease for the same rental dwelling unit,
5 the credit or rebate under this chapter shall be provided jointly to
6 all tenants renting the dwelling.

7 Sec. 61.011. PENALTIES. (a) A landlord who fails to comply
8 with this chapter is liable to the affected tenant for a civil
9 penalty of \$100 and treble the amount of any required rent credit or
10 rebate that was not provided to the tenant.

11 (b) In a suit involving the payment of a rent credit or
12 rebate, the prevailing party is entitled to recover reasonable
13 attorney's fees from the nonprevailing party.

14 Sec. 61.012. TAX APPRAISALS. In tax years 2006-2008, a
15 chief appraiser or an appraisal district may not consider a
16 reduction of school district ad valorem taxes attributable to this
17 chapter in any determination of the appraised value of a rental
18 dwelling unit, real property containing a rental dwelling unit, or
19 a multifamily rental dwelling property.

20 Sec. 61.013. COMPTROLLER STUDY. (a) The comptroller shall
21 issue a preliminary report not later than March 1, 2007, if
22 sufficient data is available, and shall issue a final report not
23 later than December 1, 2008, to the governor, the lieutenant
24 governor, and the speaker of the house of representatives on the
25 implementation, administration, and effect of this chapter,
26 including findings as to the following:

27 (1) the impact of property tax relief on rental rates

1 throughout this state considering competitive market conditions,
2 new construction, operating expenses, and other relevant factors
3 impacting rental rates;

4 (2) the number of civil actions filed by tenants
5 against landlords to enforce the provisions of this chapter and the
6 type of properties owned by those landlords;

7 (3) the number and amount of civil penalties levied
8 against landlords for noncompliance with this chapter and the type
9 of properties owned by those landlords;

10 (4) the administrative costs associated with this
11 chapter incurred by the comptroller, appraisal districts, and
12 landlords; and

13 (5) any effect of reduced school district ad valorem
14 tax rates on increasing the supply of affordable housing for
15 purchase or rent by a person for use as a dwelling.

16 (b) In preparing the report, the comptroller shall consider
17 the need to recommend alternative methods for providing school
18 district ad valorem tax relief to persons who rent their homes.

19 Sec. 61.014. EXPIRATION. This chapter expires January 1,
20 2009.

21 SECTION 2. Chapter 1, Tax Code, is amended by adding Section
22 1.16 to read as follows:

23 Sec. 1.16. LANDLORD LIABILITY FOR RESIDENTIAL TENANT'S
24 PROPERTY TAX RELIEF. The expiration of Chapter 61 does not affect
25 the liability of a landlord or other person for any amount arising
26 under Chapter 61 before the expiration, and the law governing that
27 liability remains in effect notwithstanding the expiration for

1 purposes of enforcing or satisfying the liability.

2 SECTION 3. (a) Except as provided by Subsection (b) of this
3 section:

4 (1) this Act takes effect immediately if it receives a
5 vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution; and

7 (2) if this Act does not receive the vote necessary for
8 immediate effect, this Act takes effect on the 91st day after the
9 last day of the legislative session.

10 (b) This Act takes effect only if __.B. No. ____, Acts of the
11 79th Legislature, 1st Called Session, 2005, becomes law. If that
12 bill does not become law, this Act has no effect.