

By: Nelson, Fraser

S.B. No. 1186

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the effect that certain orders relating to family  
3 violence and certain decisions regarding military service have on  
4 residential leases; providing civil penalties.

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

6 SECTION 1. Subchapter A, Chapter 92, Property Code, is  
7 amended by adding Sections 92.016 and 92.017 to read as follows:

8 Sec. 92.016. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING  
9 FAMILY VIOLENCE. (a) For purposes of this section:

10 (1) "Family violence" has the meaning assigned by  
11 Section 71.004, Family Code.

12 (2) "Occupant" means a person who has the landlord's  
13 consent to occupy a dwelling but has no obligation to pay the rent  
14 for the dwelling.

15 (b) A tenant may terminate the tenant's rights and  
16 obligations under a lease and may vacate the dwelling and avoid  
17 liability for future rent and any other sums due under the lease for  
18 terminating the lease and vacating the dwelling before the end of  
19 the lease term if the tenant complies with Subsection (c) and  
20 obtains and provides the landlord or the landlord's agent a copy of  
21 one or more of the following orders protecting the tenant or an  
22 occupant from family violence committed by a cotenant or occupant  
23 of the dwelling:

24 (1) a temporary injunction issued under Subchapter F,

1 Chapter 6, Family Code; or

2 (2) a protective order issued under Chapter 85, Family  
3 Code.

4 (c) A tenant may exercise the rights to terminate the lease  
5 under Subsection (b), vacate the dwelling before the end of the  
6 lease term, and avoid liability beginning on the date after all of  
7 the following events have occurred:

8 (1) a judge signs an order described by Subsection  
9 (b);

10 (2) the tenant has delivered a copy of the order to the  
11 landlord; and

12 (3) the tenant has vacated the dwelling.

13 (d) Except as provided by Subsection (f), this section does  
14 not affect a tenant's liability for delinquent, unpaid rent or  
15 other sums owed to the landlord before the lease was terminated by  
16 the tenant under this section.

17 (e) A landlord who violates this section is liable to the  
18 tenant for actual damages, a civil penalty equal in amount to the  
19 amount of one month's rent plus \$500, and attorney's fees.

20 (f) A tenant who terminates a lease under Subsection (b) is  
21 released from all liability for any delinquent, unpaid rent owed to  
22 the landlord by the tenant on the effective date of the lease  
23 termination if the lease does not contain language substantially  
24 equivalent to the following:

25 "Tenants may have special statutory rights to  
26 terminate the lease early in certain situations  
27 involving family violence or a military deployment or

1       transfer."

2       (g) A tenant's right to terminate a lease before the end of  
3 the lease term, vacate the dwelling, and avoid liability under this  
4 section may not be waived by a tenant.

5       Sec. 92.017. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING  
6 CERTAIN DECISIONS RELATED TO MILITARY SERVICE. (a) For purposes  
7 of this section, "dependent," "military service," and  
8 "servicemember" have the meanings assigned by 50 App. U.S.C.  
9 Section 511.

10       (b) A tenant who is a servicemember or a dependent of a  
11 servicemember may vacate the dwelling leased by the tenant and  
12 avoid liability for future rent and all other sums due under the  
13 lease for terminating the lease and vacating the dwelling before  
14 the end of the lease term if:

15               (1) the lease was executed by or on behalf of a person  
16 who, after executing the lease or during the term of the lease,  
17 enters military service; or

18               (2) a servicemember, while in military service,  
19 executes the lease and after executing the lease receives military  
20 orders:

21                       (A) for a permanent change of station; or

22                       (B) to deploy with a military unit for a period of  
23 90 days or more.

24       (c) A tenant who terminates a lease under Subsection (b)  
25 shall deliver to the landlord or landlord's agent:

26               (1) a written notice of termination of the lease; and

27               (2) a copy of an appropriate government document

1 providing evidence of the tenant's entrance into military service  
2 if Subsection (b)(1) applies or a copy of the servicemember's  
3 military orders if Subsection (b)(2) applies.

4 (d) Termination of a lease under this section is effective:

5 (1) in the case of a lease that provides for monthly  
6 payment of rent, on the 30th day after the first date on which the  
7 next rental payment is due after the date on which the notice under  
8 Subsection (c)(1) is delivered; or

9 (2) in the case of a lease other than a lease described  
10 by Subdivision (1), on the last day of the month following the month  
11 in which the notice under Subsection (c)(1) is delivered.

12 (e) A landlord, not later than the 30th day after the  
13 effective date of the termination of a lease under this section,  
14 shall refund to the residential tenant terminating the lease under  
15 Subsection (b) all rent or other amounts paid in advance under the  
16 lease for any period after the effective date of the termination of  
17 the lease.

18 (f) Except as provided by Subsection (g), this section does  
19 not affect a tenant's liability for delinquent, unpaid rent or  
20 other sums owed to the landlord before the lease was terminated by  
21 the tenant under this section.

22 (g) A tenant who terminates a lease under Subsection (b) is  
23 released from all liability for any delinquent, unpaid rent owed to  
24 the landlord by the tenant on the effective date of the lease  
25 termination if the lease does not contain language substantially  
26 equivalent to the following:

27 "Tenants may have special statutory rights to

1 terminate the lease early in certain situations  
2 involving family violence or a military deployment or  
3 transfer."

4 (h) A landlord who violates this section is liable to the  
5 tenant for actual damages, a civil penalty in an amount equal to the  
6 amount of one month's rent plus \$500, and attorney's fees.

7 (i) Except as provided by Subsection (j), a tenant's right  
8 to terminate a lease before the end of the lease term, vacate the  
9 dwelling, and avoid liability under this section may not be waived  
10 by a tenant.

11 (j) A tenant and a landlord may agree that the tenant waives  
12 a tenant's rights under this section if the tenant or any dependent  
13 living with the tenant moves into base housing or other housing  
14 within 30 miles of the dwelling. A waiver under this section must  
15 be signed and in writing in a document separate from the lease and  
16 must comply with federal law. A waiver under this section does not  
17 apply if:

18 (1) the tenant or the tenant's dependent moves into  
19 housing owned or occupied by family or relatives of the tenant or  
20 the tenant's dependent; or

21 (2) the tenant and the tenant's dependent move, wholly  
22 or partly, because of a significant financial loss of income caused  
23 by the tenant's military service.

24 (k) For purposes of Subsection (j), "significant financial  
25 loss of income" means a reduction of 10 percent or more of the  
26 tenant's household income caused by the tenant's military service.  
27 A landlord is entitled to verify the significant financial loss of

1 income in order to determine whether a tenant is entitled to  
2 terminate a lease if the tenant has signed a waiver under this  
3 section and moves within 30 miles of the dwelling into housing that  
4 is not owned or occupied by family or relatives of the tenant or the  
5 tenant's dependent. For purposes of this subsection, a pay stub or  
6 other statement of earnings issued by the tenant's employer is  
7 sufficient verification.

8 SECTION 2. Section 92.006, Property Code, is amended by  
9 adding Subsection (g) to read as follows:

10 (g) A tenant's right to vacate a dwelling and avoid  
11 liability under Section 92.016 or 92.017 may not be waived by a  
12 tenant or a landlord, except as provided by those sections.

13 SECTION 3. Any change in law made by Section 92.016, Section  
14 92.017, or Subsection (g), Section 92.006, Property Code, as added  
15 by this Act, applies only to a lease that is executed or renewed on  
16 or after the applicable effective date of Section 92.016, Section  
17 92.017, or Subsection (g), Section 92.006, Property Code, as added  
18 by this Act. A lease that is executed or renewed before the  
19 applicable effective date of Section 92.016, Section 92.017, or  
20 Subsection (g), Section 92.006, Property Code, as added by this  
21 Act, is governed by the law in effect at the time the lease was  
22 executed or renewed, and that law is continued in effect for that  
23 purpose.

24 SECTION 4. (a) Except as provided by Subsections (b) and  
25 (c) of this section, this Act takes effect immediately if it  
26 receives a vote of two-thirds of all the members elected to each  
27 house, as provided by Section 39, Article III, Texas Constitution.

1 If this Act does not receive the vote necessary for immediate  
2 effect, this Act takes effect September 1, 2005.

3 (b) Subsection (g), Section 92.017, Property Code, as added  
4 by this Act, takes effect January 1, 2006.

5 (c) Section 92.016, Property Code, as added by this Act,  
6 takes effect January 1, 2006.