

1-1 By: Nelson S.B. No. 1186  
1-2 (In the Senate - Filed March 9, 2005; March 21, 2005, read  
1-3 first time and referred to Committee on Veteran Affairs and  
1-4 Military Installations; April 18, 2005, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 5,  
1-6 Nays 0; April 18, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1186 By: Estes

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the effect that certain orders relating to family  
1-11 violence and certain decisions regarding military service have on  
1-12 residential leases; providing civil penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter A, Chapter 92, Property Code, is  
1-15 amended by adding Sections 92.016 and 92.017 to read as follows:

1-16 Sec. 92.016. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING  
1-17 FAMILY VIOLENCE. (a) For purposes of this section:

1-18 (1) "Family violence" has the meaning assigned by  
1-19 Section 71.004, Family Code.

1-20 (2) "Occupant" means a person who has the landlord's  
1-21 consent to occupy a dwelling but has no obligation to pay the rent  
1-22 for the dwelling.

1-23 (b) A tenant may terminate the tenant's rights and  
1-24 obligations under a lease and may vacate the dwelling and avoid  
1-25 liability for future rent and any other sums due under the lease for  
1-26 terminating the lease and vacating the dwelling before the end of  
1-27 the lease term if the tenant complies with Subsection (c) and  
1-28 obtains and provides the landlord or the landlord's agent a copy of  
1-29 one or more of the following orders protecting the tenant or an  
1-30 occupant from family violence committed by a cotenant or occupant  
1-31 of the dwelling:

1-32 (1) a temporary injunction issued under Subchapter F,  
1-33 Chapter 6, Family Code; or

1-34 (2) a protective order issued under Chapter 85, Family  
1-35 Code.

1-36 (c) A tenant may exercise the rights to terminate the lease  
1-37 under Subsection (b), vacate the dwelling before the end of the  
1-38 lease term, and avoid liability beginning on the date after all of  
1-39 the following events have occurred:

1-40 (1) a judge signs an order described by Subsection  
1-41 (b);

1-42 (2) the tenant has delivered a copy of the order to the  
1-43 landlord; and

1-44 (3) the tenant has vacated the dwelling.

1-45 (d) Except as provided by Subsection (f), this section does  
1-46 not affect a tenant's liability for delinquent, unpaid rent or  
1-47 other sums owed to the landlord before the lease was terminated by  
1-48 the tenant under this section.

1-49 (e) A landlord who violates this section is liable to the  
1-50 tenant for actual damages, a civil penalty equal in amount to the  
1-51 amount of one month's rent plus \$500, and attorney's fees.

1-52 (f) A tenant who terminates a lease under Subsection (b) is  
1-53 released from all liability for any delinquent, unpaid rent owed to  
1-54 the landlord by the tenant on the effective date of the lease  
1-55 termination if the lease does not contain language substantially  
1-56 equivalent to the following:

1-57 "Tenants may have special statutory rights to  
1-58 terminate the lease early in certain situations  
1-59 involving family violence or a military deployment or  
1-60 transfer."

1-61 (g) A tenant's right to terminate a lease before the end of  
1-62 the lease term, vacate the dwelling, and avoid liability under this  
1-63 section may not be waived by a tenant.

2-1 Sec. 92.017. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING  
 2-2 CERTAIN DECISIONS RELATED TO MILITARY SERVICE. (a) For purposes of  
 2-3 this section, "dependent," "military service," and "servicemember"  
 2-4 have the meanings assigned by 50 App. U.S.C. Section 511.

2-5 (b) A tenant who is a servicemember or a dependent of a  
 2-6 servicemember may vacate the dwelling leased by the tenant and  
 2-7 avoid liability for future rent and all other sums due under the  
 2-8 lease for terminating the lease and vacating the dwelling before  
 2-9 the end of the lease term if:

2-10 (1) the lease was executed by or on behalf of a person  
 2-11 who, after executing the lease or during the term of the lease,  
 2-12 enters military service; or

2-13 (2) a servicemember, while in military service,  
 2-14 executes the lease and after executing the lease receives military  
 2-15 orders:

2-16 (A) for a permanent change of station; or

2-17 (B) to deploy with a military unit for a period of  
 2-18 90 days or more.

2-19 (c) A tenant who terminates a lease under Subsection (b)  
 2-20 shall deliver to the landlord or landlord's agent:

2-21 (1) a written notice of termination of the lease; and  
 2-22 (2) a copy of an appropriate government document  
 2-23 providing evidence of the tenant's entrance into military service  
 2-24 if Subsection (b)(1) applies or a copy of the servicemember's  
 2-25 military orders if Subsection (b)(2) applies.

2-26 (d) Termination of a lease under this section is effective:

2-27 (1) in the case of a lease that provides for monthly  
 2-28 payment of rent, on the 30th day after the first date on which the  
 2-29 next rental payment is due after the date on which the notice under  
 2-30 Subsection (c)(1) is delivered; or

2-31 (2) in the case of a lease other than a lease described  
 2-32 by Subdivision (1), on the last day of the month following the month  
 2-33 in which the notice under Subsection (c)(1) is delivered.

2-34 (e) A landlord, not later than the 30th day after the  
 2-35 effective date of the termination of a lease under this section,  
 2-36 shall refund to the residential tenant terminating the lease under  
 2-37 Subsection (b) all rent or other amounts paid in advance under the  
 2-38 lease for any period after the effective date of the termination of  
 2-39 the lease.

2-40 (f) Except as provided by Subsection (g), this section does  
 2-41 not affect a tenant's liability for delinquent, unpaid rent or  
 2-42 other sums owed to the landlord before the lease was terminated by  
 2-43 the tenant under this section.

2-44 (g) A tenant who terminates a lease under Subsection (b) is  
 2-45 released from all liability for any delinquent, unpaid rent owed to  
 2-46 the landlord by the tenant on the effective date of the lease  
 2-47 termination if the lease does not contain language substantially  
 2-48 equivalent to the following:

2-49 "Tenants may have special statutory rights to  
 2-50 terminate the lease early in certain situations  
 2-51 involving family violence or a military deployment or  
 2-52 transfer."

2-53 (h) A landlord who violates this section is liable to the  
 2-54 tenant for actual damages, a civil penalty in an amount equal to the  
 2-55 amount of one month's rent plus \$500, and attorney's fees.

2-56 (i) Except as provided by Subsection (j), a tenant's right  
 2-57 to terminate a lease before the end of the lease term, vacate the  
 2-58 dwelling, and avoid liability under this section may not be waived  
 2-59 by a tenant.

2-60 (j) A tenant and a landlord may agree that the tenant waives  
 2-61 a tenant's rights under this section if the tenant or any dependent  
 2-62 living with the tenant moves into base housing or other housing  
 2-63 within 30 miles of the dwelling. A waiver under this section must  
 2-64 be signed and in writing in a document separate from the lease and  
 2-65 must comply with federal law. A waiver under this section does not  
 2-66 apply if:

2-67 (1) the tenant or the tenant's dependent moves into  
 2-68 housing owned or occupied by family or relatives of the tenant or  
 2-69 the tenant's dependent; or

3-1 (2) the tenant and the tenant's dependent move, wholly  
3-2 or partly, because of a significant financial loss of income caused  
3-3 by the tenant's military service.

3-4 (k) For purposes of Subsection (j), "significant financial  
3-5 loss of income" means a reduction of 10 percent or more of the  
3-6 tenant's household income caused by the tenant's military service.  
3-7 A landlord is entitled to verify the significant financial loss of  
3-8 income in order to determine whether a tenant is entitled to  
3-9 terminate a lease if the tenant has signed a waiver under this  
3-10 section and moves within 30 miles of the dwelling into housing that  
3-11 is not owned or occupied by family or relatives of the tenant or the  
3-12 tenant's dependent. For purposes of this subsection, a pay stub or  
3-13 other statement of earnings issued by the tenant's employer is  
3-14 sufficient verification.

3-15 SECTION 2. Section 92.006, Property Code, is amended by  
3-16 adding Subsection (g) to read as follows:

3-17 (g) A tenant's right to vacate a dwelling and avoid  
3-18 liability under Section 92.016 or 92.017 may not be waived by a  
3-19 tenant or a landlord, except as provided by those sections.

3-20 SECTION 3. Any change in law made by Section 92.016, Section  
3-21 92.017, or Subsection (g), Section 92.006, Property Code, as added  
3-22 by this Act, applies only to a lease that is executed or renewed on  
3-23 or after the applicable effective date of Section 92.016, Section  
3-24 92.017, or Subsection (g), Section 92.006, Property Code, as added  
3-25 by this Act. A lease that is executed or renewed before the  
3-26 applicable effective date of Section 92.016, Section 92.017, or  
3-27 Subsection (g), Section 92.006, Property Code, as added by this  
3-28 Act, is governed by the law in effect at the time the lease was  
3-29 executed or renewed, and that law is continued in effect for that  
3-30 purpose.

3-31 SECTION 4. (a) Except as provided by Subsections (b) and  
3-32 (c) of this section, this Act takes effect immediately if it  
3-33 receives a vote of two-thirds of all the members elected to each  
3-34 house, as provided by Section 39, Article III, Texas Constitution.  
3-35 If this Act does not receive the vote necessary for immediate  
3-36 effect, this Act takes effect September 1, 2005.

3-37 (b) Subsection (g), Section 92.017, Property Code, as added  
3-38 by this Act, takes effect January 1, 2006.

3-39 (c) Section 92.016, Property Code, as added by this Act,  
3-40 takes effect January 1, 2006.

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