

By: Dutton

H.B. No. 1402

A BILL TO BE ENTITLED

AN ACT

relating to a tenant's right to terminate a residential lease under certain circumstances; providing a civil penalty.

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

SECTION 1. Subchapter A, Chapter 92, Property Code, is amended by adding Sections 92.019 and 92.020 to read as follows:

Sec. 92.019. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING CERTAIN CRIMES. (a) A tenant may vacate the dwelling leased by the tenant and avoid liability for future rent and all other sums due under the lease for terminating the lease and vacating the dwelling before the end of the lease term if:

(1) the tenant is the victim of one of the following offenses committed on the premises:

(A) an offense under Title 5, Penal Code; or

(B) an offense under Section 42.072, Penal Code;

and

(2) the offense committed is punishable by confinement or imprisonment.

(b) A tenant who terminates a lease under this section shall deliver to the landlord or the landlord's agent:

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

(2) a copy of a police report regarding the offense that is the basis for the termination.

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

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

5 (2) in the case of a lease other than a lease described
6 by Subdivision (1), on the last day of the month following the month
7 in which the notice under Subsection (b) is delivered.

8 (d) Not later than the 30th day after the effective date of
9 the termination of a lease under this section, a landlord shall
10 refund to the tenant terminating the lease all rent or other amounts
11 paid in advance under the lease for any period after the effective
12 date of the termination of the lease.

13 (e) 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 (f) A tenant who terminates a lease under this section is
18 released from all liability for any delinquent, unpaid rent owed to
19 the landlord by the tenant on the effective date of the lease
20 termination unless the lease contains language substantially
21 equivalent to the following:

22 "Tenants may have special statutory rights to terminate the
23 lease early in certain situations involving the occurrence of a
24 crime on the premises."

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

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

4 Sec. 92.020. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING
5 TENANT'S DEATH. (a) A representative of a deceased tenant's estate
6 or any other legal representative of a deceased tenant may
7 terminate the tenant's rights and obligations under a lease and may
8 vacate the dwelling and avoid liability for future rent and all
9 other sums due under the lease for terminating the lease and
10 vacating the dwelling before the end of the lease term if the
11 representative complies with Subsection (b).

12 (b) A representative of the tenant's estate or any other
13 legal representative of the tenant may exercise the right to
14 terminate the lease under Subsection (a), vacate the dwelling
15 before the end of the lease term, and avoid liability beginning on
16 the day after the date the representative of the tenant's estate or
17 any other legal representative of the tenant:

18 (1) delivers a certified copy of the tenant's death
19 certificate to the landlord or the landlord's agent; and

20 (2) vacates the dwelling.

21 (c) Not later than the 30th day after the effective date of
22 the termination of a lease under this section, a landlord shall
23 refund to the representative of the deceased tenant's estate or any
24 other legal representative of the deceased tenant all rent or other
25 amounts paid in advance under the lease for any period after the
26 effective date of the termination of the lease.

27 (d) Except as provided by Subsection (e), this section does

1 not affect the liability of a representative of the tenant's estate
2 or any other legal representative of the tenant for delinquent,
3 unpaid rent or other sums owed to the landlord before the lease was
4 terminated under this section.

5 (e) A representative of the tenant's estate or any other
6 legal representative of the tenant who terminates a lease under
7 this section is released from all liability for any delinquent,
8 unpaid rent owed to the landlord by the tenant on the effective date
9 of the lease termination unless the lease contains language
10 substantially equivalent to the following:

11 "A representative of the tenant's estate or other legal
12 representative of the tenant has special statutory rights to
13 terminate the lease early in situations involving the tenant's
14 death."

15 (f) A landlord who violates this section is liable to the
16 representative of the tenant's estate or any other legal
17 representative of the tenant for actual damages, additional damages
18 equal to the amount of one month's rent plus \$500, and attorney's
19 fees.

20 (g) The right of a representative of the tenant's estate or
21 any other legal representative of the tenant to terminate a lease
22 before the end of the lease term, vacate the dwelling, and avoid
23 liability as provided by this section may not be waived by a tenant.

24 SECTION 2. The changes in law made by this Act apply only to
25 a lease or lease agreement that is executed or renewed on or after
26 the effective date of this Act. A lease or lease agreement that is
27 executed or renewed before the effective date of this Act is

1 governed by the law in effect at the time the lease or lease
2 agreement was executed or renewed, and that law is continued in
3 effect for that purpose.

4 SECTION 3. This Act takes effect January 1, 2008.