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H.B. No. 3101

A BILL TO BE ENTITLED

AN ACT

relating to a residential tenant's rights and remedies.

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

SECTION 1. Section 92.0081, Property Code, is amended by amending Subsections (b), (d), and (h) and adding Subsections (e-1), (k), and (l) to read as follows:

(b) A landlord may not intentionally prevent a tenant from entering the leased premises except by judicial process unless the exclusion results from:

(1) bona fide repairs, construction, or an emergency;

(2) removing the contents of premises abandoned by a tenant; or

(3) changing the door locks on the door to the tenant's individual unit of a tenant who is delinquent in paying at least part of the rent.

(d) A landlord may not intentionally prevent a tenant from entering the leased premises under Subsection (b)(3) unless:

(1) the landlord's right to change the locks because of a tenant's failure to timely pay rent is placed in the lease;

(2) the the tenant is delinquent in paying all or part of the rent; and

(3) (2) ~~the~~ the landlord has locally mailed not later than the fifth calendar day before the date on which the door locks are changed or hand-delivered to the tenant or posted on the inside

1 of the main entry door of the tenant's dwelling not later than the  
2 third calendar day before the date on which the door locks are  
3 changed a written notice stating:

4 (A) the earliest date that the landlord proposes  
5 to change the door locks;

6 (B) the amount of rent the tenant must pay to  
7 prevent changing of the door locks; ~~and~~

8 (C) the name and street address of the individual  
9 to whom, or the location of the on-site management office at which,  
10 the delinquent rent may be discussed or paid during the landlord's  
11 normal business hours; and

12 (D) in underlined or bold print, the tenant's  
13 right to receive a key to the new lock at any hour, regardless of  
14 whether the tenant pays the delinquent rent.

15 (e-1) A landlord who changes the locks or otherwise prevents  
16 a tenant from entering the tenant's individual rental unit may not  
17 change the locks or otherwise prevent a tenant from entering a  
18 common area of residential rental property.

19 (h) If a landlord violates this section, the tenant may:

20 (1) either recover possession of the premises or  
21 terminate the lease; and

22 (2) in addition to any other remedy provided by law,  
23 recover from the landlord a civil penalty of one month's rent plus  
24 \$1,000 ~~[\$500]~~, actual damages, court costs, and reasonable  
25 attorney's fees in an action to recover property damages, actual  
26 expenses, or civil penalties, less any delinquent rent or other  
27 sums for which the tenant is liable to the landlord.

1       (k) A landlord may not change the locks on the door of a  
2 tenant's dwelling under Subsection (b)(3):

3           (1) when the tenant or any other legal occupant is in  
4 the dwelling; or

5           (2) more than once during a rental payment period.

6       (1) This section does not affect the ability of a landlord  
7 to pursue other available remedies, including the remedies provided  
8 by Chapter 24.

9       SECTION 2. Section 92.0131, Property Code, is amended by  
10 adding Subsection (c-1) to read as follows:

11       (c-1) As a precondition for allowing a tenant to park in a  
12 specific parking space or a common parking area that the landlord  
13 has made available for tenant use, the landlord may require a tenant  
14 to provide only the make, model, color, year, license number, and  
15 state of registration of the vehicle to be parked.

16       SECTION 3. Subchapter A, Chapter 92, Property Code, is  
17 amended by adding Section 92.019 to read as follows:

18       Sec. 92.019. LATE PAYMENT OF RENT; FEES. (a) A landlord  
19 may not charge a tenant a late fee for failing to pay rent unless:

20           (1) notice of the fee is included in a written lease;

21           (2) the fee is a reasonable estimate of uncertain  
22 damages to the landlord that are incapable of precise calculation  
23 and result from late payment of rent; and

24           (3) the rent remains unpaid after the second day after  
25 the date the rent was originally due.

26       (b) A late fee under this section may include an initial fee  
27 and a daily fee for each day the rent continues to remain unpaid. A

1 daily fee may not be charged for more than 15 days for any single  
2 month's rent.

3 (c) A landlord who violates this section is liable to the  
4 tenant for an amount equal to the sum of \$100, three times the  
5 amount of the late fee charged in violation of this section, and the  
6 tenant's reasonable attorney's fees.

7 (d) A provision of a lease that purports to waive a right or  
8 exempt a party from a liability or duty under this section is void.

9 (e) This section relates only to a fee, charge, or other sum  
10 of money required to be paid under the lease if rent is not paid as  
11 provided by Subsection (a)(3), and does not affect the landlord's  
12 right to terminate the lease or take other action permitted by the  
13 lease or other law. Payment of the fee, charge, or other sum of  
14 money by a tenant does not waive the right or remedies provided by  
15 this section.

16 SECTION 4. Subchapter A, Chapter 92, Property Code, is  
17 amended by adding Section 92.020 to read as follows:

18 Sec. 92.020. EMERGENCY PHONE NUMBER. (a) A landlord must  
19 provide to a tenant a telephone number that will be answered 24  
20 hours a day for the purpose of reporting emergencies related to a  
21 condition of the leased premises that materially affects the  
22 physical health or safety of an ordinary tenant.

23 (b) A landlord of residential rental property that has an  
24 on-site management or superintendent's office must post the phone  
25 number required by Subsection (a) prominently outside the  
26 management or superintendent's office.

27 (c) This section does not apply to or affect a local

1 ordinance governing a landlord's obligation to provide a 24-hour  
2 emergency contact number to a tenant that is adopted before January  
3 1, 2008, if the ordinance conforms with or is amended to conform  
4 with this section.

5 SECTION 5. Subchapter A, Chapter 92, Property Code, is  
6 amended by adding Section 92.021 to read as follows:

7 Sec. 92.021. NOTICE OF INTENT TO VACATE DWELLING OR EXTEND  
8 TENANCY. (a) Notwithstanding any other law, a landlord shall, not  
9 sooner than the 90th day and not later than the fifth day before the  
10 last day of the lease term specified in a written lease, request  
11 from a tenant written notice of whether the tenant intends to extend  
12 the tenancy beyond the term specified in the tenant's lease.

13 (b) A tenant shall respond in writing to a request made by a  
14 landlord under Subsection (a) not later than the last day of the  
15 lease term specified in the tenant's lease.

16 (c) The requirements of Subsections (a) and (b) may not be  
17 waived.

18 SECTION 6. Section 92.056, Property Code, is amended by  
19 adding Subsection (g) to read as follows:

20 (g) A lease must contain language in underlined or bold  
21 print that informs the tenant of the remedies available under this  
22 section and Section 92.0561.

23 SECTION 7. The heading to Subchapter I, Chapter 92,  
24 Property Code, is amended to read as follows:

25 SUBCHAPTER I. RENTAL APPLICATION [~~DEPOSITS~~]

26 SECTION 8. Section 92.351, Property Code, is amended by  
27 adding Subdivisions (1-a) and (5-a) to read as follows:

1           (1-a) "Application fee" means a nonrefundable sum of  
2 money that is given to the landlord to offset the costs of screening  
3 an applicant for acceptance as a tenant.

4           (5-a) "Rental application" means a written request  
5 made by an applicant to a landlord to lease premises from the  
6 landlord.

7           SECTION 9. Subchapter I, Chapter 92, Property Code, is  
8 amended by adding Section 92.3515 to read as follows:

9           Sec. 92.3515. NOTICE OF ELIGIBILITY REQUIREMENTS. (a) At  
10 the time an applicant is provided with a rental application, the  
11 landlord shall provide to the applicant printed notice of the  
12 landlord's tenant selection criteria and the grounds for which the  
13 rental application may be denied, including the applicant's:

14               (1) criminal history;  
15               (2) previous rental history;  
16               (3) current income;  
17               (4) credit history; or  
18               (5) failure to provide accurate or complete  
19 information on the application form.

20           (b) If the landlord provides the notice under Subsection  
21 (a), the applicant shall sign an acknowledgment indicating the  
22 notice was provided. If the acknowledgment is not signed, there is  
23 a rebuttable presumption that the notice was not received by the  
24 applicant.

25           (c) The acknowledgment required by Subsection (b) must  
26 include a statement substantively equivalent to the following:  
27 "Signing this acknowledgment indicates that you have had the

1 opportunity to review the landlord's tenant selection criteria.  
2 The tenant selection criteria may include factors such as criminal  
3 history, credit history, current income, and rental history. If  
4 you do not meet the selection criteria, or if you provide inaccurate  
5 or incomplete information, your application may be rejected and  
6 your application fee will not be refunded."

7 (d) The acknowledgment may be part of the rental application  
8 if the notice is underlined or in bold print.

9 (e) If the landlord rejects an applicant and the landlord  
10 has not provided the notice required by Subsection (a), the  
11 landlord shall return the application fee and any application  
12 deposit.

13 (f) If an applicant requests a landlord to mail a refund of  
14 the applicant's application fee to the applicant, the landlord  
15 shall mail the refund check to the applicant at the address  
16 furnished by the applicant.

17 SECTION 10. Section 92.354, Property Code, is amended to  
18 read as follows:

19 Sec. 92.354. LIABILITY OF LANDLORD. A landlord who in bad  
20 faith fails to refund an application fee or deposit in violation of  
21 this subchapter is liable for an amount equal to the sum of \$100,  
22 three times the amount wrongfully retained [~~of the application~~  
23 ~~deposit~~], and the applicant's reasonable attorney's fees [~~in a suit~~  
24 ~~to recover the deposit~~].

25 SECTION 11. Subchapter I, Chapter 92, Property Code, is  
26 amended by adding Section 92.355 to read as follows:

27 Sec. 92.355. WAIVER. A provision of a rental application

1 that purports to waive a right or exempt a party from a liability or  
2 duty under this subchapter is void.

3       SECTION 12. This Act applies only to a lease agreement or a  
4 renewal of a lease agreement entered into, or a rental application  
5 received by an applicant, on or after the effective date of this  
6 Act. A lease agreement or a renewal of a lease agreement entered  
7 into, or a rental application received by an applicant, before the  
8 effective date of this Act is covered by the law in effect at the  
9 time the lease agreement or renewal of the lease agreement was  
10 entered into or the rental application was received, and the former  
11 law is continued in effect for that purpose.

12       SECTION 13. This Act takes effect January 1, 2008.