

By: Deshotel

H.B. No. 4620

A BILL TO BE ENTITLED

AN ACT

relating to the rights and responsibilities of residential  
landlords and tenants.

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

SECTION 1. Chapter 24, Property Code, is amended by adding  
Section 24.0071 to read as follows:

Sec. 24.0071. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS.

(a) On a written application of any party to an eviction suit, the  
county court or county court at law in which an appeal of the suit is  
filed shall appoint counsel to attend to the cause of a party who:

(1) was in possession of the residence at the time the  
eviction suit was filed in the justice court; and

(2) has perfected the appeal on a pauper's affidavit  
approved in accordance with Rule 749a, Texas Rules of Civil  
Procedure.

(b) The appointed counsel shall represent the individual in  
the proceedings of the suit in the county court or county court at  
law. At the conclusion of those proceedings, the appointment  
terminates.

(c) The court may terminate representation appointed under  
this section for cause.

(d) Reasonable attorney's fees and expenses of appointed  
counsel shall be:

(1) taxed by the court in any manner the court

1 considers fair and just; and

2 (2) paid by the county in which the suit is filed, in  
3 appropriate suits.

4 (e) The court shall provide for a method of service of  
5 written notice on the parties to an eviction suit of the right to an  
6 appointment of counsel on perfection of appeal on approval of a  
7 pauper's affidavit.

8 SECTION 2. Chapter 51, Property Code, is amended by adding  
9 Section 51.0022 to read as follows:

10 Sec. 51.0022. NOTICE OF SALE TO TENANT. Not later than the  
11 seventh day after the date a debtor receives a notice of sale under  
12 Section 51.002(b), the debtor shall serve a copy of the notice on  
13 each tenant of the property by any one of the following methods:

14 (1) personal delivery to the tenant;

15 (2) certified mail, return receipt requested, to the  
16 tenant; or

17 (3) leaving the notice inside the dwelling, as defined  
18 by Section 92.001, in a conspicuous place if notice in that manner  
19 is authorized in a written lease.

20 SECTION 3. Section 92.019(a), Property Code, is amended to  
21 read as follows:

22 (a) A landlord may not charge a tenant a late fee for failing  
23 to pay rent unless:

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

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

1           (3) the rent has remained [~~remains~~] unpaid one full  
2 ~~[after the second]~~ day after the date the rent was originally due.

3           SECTION 4. Subchapter A, Chapter 92, Property Code, is  
4 amended by adding Sections 92.021 to read as follows:

5           Sec. 92.021. RIGHT TO RESCIND. (a) A tenant may rescind a  
6 rental application or lease without cause or penalty on or before  
7 the fifth day after the date the landlord provides to the tenant a  
8 key to the premises unless the landlord:

9           (1) notifies the tenant that the tenant may inspect  
10 the interior of the premises at the time the application is signed  
11 or before the lease is signed; and

12           (2) allows the tenant to inspect the interior of the  
13 premises before the lease is signed.

14           (b) A provision of a lease that purports to waive a tenant's  
15 right or to exempt a landlord from liability or duty under this  
16 section is void.

17           SECTION 5. Section 301.021, Property Code, is amended by  
18 adding Subsection (b-1) to read as follows:

19           (b-1) A person may not discriminate against another person  
20 in the terms, conditions, or privileges of the rental of a dwelling  
21 or in providing services or facilities in connection with the  
22 rental of a dwelling because the other person receives a rent  
23 subsidy or other public assistance from a political subdivision of  
24 the state or from the state or federal government.

25           SECTION 6. Subtitle C, Title 7, Local Government Code, is  
26 amended by adding Chapter 247 to read as follows:

1 CHAPTER 247. CERTAIN PROHIBITIONS APPLYING TO MORE THAN ONE TYPE  
2 OF LOCAL GOVERNMENT

3 Sec. 247.001. PROHIBITION AGAINST REGULATING RESIDENTIAL  
4 TENANCIES BASED ON IMMIGRATION STATUS. (a) A political  
5 subdivision may not require a landlord to:

6 (1) refuse to lease to a prospective tenant or renew  
7 the lease of a tenant solely on the basis of the immigration status  
8 of the tenant or a member of the tenant's family; or

9 (2) inquire as to the immigration status of a tenant or  
10 prospective tenant or a member of the tenant's family.

11 (b) To the extent the prohibition imposed by Subsection (a)  
12 conflicts with common law, another state statute, or a local  
13 ordinance or other regulation, the prohibition in Subsection (a)  
14 prevails.

15 SECTION 7. This Act applies only to a lease agreement  
16 entered into on or after the effective date of this Act. A lease  
17 agreement entered into before the effective date of this Act is  
18 governed by the law in effect immediately before the effective date  
19 of this Act, and that law is continued in effect for that purpose.

20 SECTION 8. This Act takes effect September 1, 2009.