

By: Deshotel

H.B. No. 1429

A BILL TO BE ENTITLED

AN ACT

relating to rights and remedies of certain residential tenants and landlords; providing civil penalties.

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

SECTION 1. Section 24.005, Property Code, is amended by amending Subsection (b) and adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b) If the occupant is a tenant at will or by sufferance, the landlord must give the tenant at least three days' written notice to vacate before the landlord files a forcible detainer suit unless the parties have contracted for a shorter or longer notice period in a written lease or agreement.

(b-1) If the occupant is a bona fide residential tenant at will or by sufferance, a purchaser who purchases at a judicial or nonjudicial foreclosure sale the building that the tenant occupies must give the tenant at least 90 days' written notice to vacate.

(b-2) For purposes of this section, a residential tenant is bona fide only if the tenant:

(1) occupies the premises on the date of the foreclosure sale; and

(2) is not the mortgagor of the purchaser at the foreclosure sale or the child, spouse, or parent of the mortgagor.

~~[If a building is purchased at a tax foreclosure sale or a trustee's foreclosure sale under a lien superior to the tenant's lease and the~~

1 ~~tenant timely pays rent and is not otherwise in default under the~~
2 ~~tenant's lease after foreclosure, the purchaser must give a~~
3 ~~residential tenant of the building at least 30 days' written notice~~
4 ~~to vacate if the purchaser chooses not to continue the lease. The~~
5 ~~tenant is considered to timely pay the rent under this subsection~~
6 ~~if, during the month of the foreclosure sale, the tenant pays the~~
7 ~~rent for that month to the landlord before receiving any notice that~~
8 ~~a foreclosure sale is scheduled during the month or pays the rent~~
9 ~~for that month to the foreclosing lienholder or the purchaser at~~
10 ~~foreclosure not later than the fifth day after the date of receipt~~
11 ~~of a written notice of the name and address of the purchaser that~~
12 ~~requests payment.]~~

13 **(b-3)** Before a foreclosure sale, a foreclosing lienholder
14 may give [~~written notice~~] to a tenant at will or by sufferance or
15 under a written lease or oral rental agreement written notice
16 stating that a foreclosure notice has been given to the landlord or
17 owner of the property and specifying the date of the foreclosure.

18 SECTION 2. Subchapter A, Chapter 92, Property Code, is
19 amended by adding Sections 92.025 and 92.026 to read as follows:

20 Sec. 92.025. EFFECT OF FORECLOSURE ON TENANCY. (a) The
21 purchaser of a premises at a judicial or nonjudicial foreclosure
22 sale may require a bona fide tenant of the premises to vacate only
23 after the purchaser provides to the tenant at least 90 days' written
24 notice to vacate.

25 (b) A bona fide tenant of a premises purchased at a judicial
26 or nonjudicial foreclosure sale may occupy the premises until the
27 later of:

1 (1) the date provided by the notice to vacate under
2 Subsection (a); or

3 (2) the end of the remaining lease term.

4 (c) For purposes of Subsection (b), a tenant may occupy the
5 premises as described by Subsection (b) only if the tenant:

6 (1) owes no delinquent or unpaid rent or other sums
7 owed to the landlord on the date of the foreclosure sale; and

8 (2) is a party to a lease agreement that is effective
9 on the date of the foreclosure sale.

10 (d) For purposes of this section, a tenant is bona fide only
11 if:

12 (1) the lease was the result of an arms-length
13 transaction;

14 (2) the lease requires receipt of rent that is not
15 substantially less than fair market rent for the premises; and

16 (3) the tenant is not the mortgagor of the purchaser at
17 the foreclosure sale or the child, spouse, or parent of the
18 mortgagor.

19 Sec. 92.026. LANDLORD'S DUTY TO PROVIDE COPY OF LEASE. (a)
20 A landlord shall provide a copy of the lease to each tenant who is a
21 party to the lease on the date on which the tenant signs the lease.

22 (b) If a landlord fails to comply with Subsection (a), the
23 tenant may:

24 (1) unilaterally terminate the lease and vacate the
25 premises without a court proceeding; and

26 (2) bring an action to recover from the landlord a
27 civil penalty of an amount equal to one month's rent plus \$1,000,

1 actual damages, court costs, and reasonable attorney's fees.

2 SECTION 3. Sections 92.331(a) and (b), Property Code, are
3 amended to read as follows:

4 (a) A landlord may not retaliate against a tenant by taking
5 an action described by Subsection (b) because the tenant:

6 (1) in good faith exercises or attempts to exercise
7 against a landlord a right or remedy granted to the tenant by lease,
8 municipal ordinance, or federal or state statute;

9 (2) gives a landlord a notice to repair or exercise a
10 remedy under this chapter; [~~or~~]

11 (3) complains to a governmental entity responsible for
12 enforcing building or housing codes, a public utility, or a civic or
13 nonprofit agency, and the tenant:

14 (A) claims a building or housing code violation
15 or utility problem; and

16 (B) believes in good faith that the complaint is
17 valid and that the violation or problem occurred;

18 (4) establishes, attempts to establish, or
19 participates in a tenant organization; or

20 (5) raises in good faith any issue regarding the
21 condition or use of the property.

22 (b) A landlord may not, within six months after the date of
23 the tenant's action under Subsection (a), retaliate against the
24 tenant by:

25 (1) filing an eviction proceeding, except for the
26 grounds stated by Section 92.332;

27 (2) depriving the tenant of the use of the premises,

1 except for reasons authorized by law;

2 (3) decreasing services to the tenant;

3 (4) increasing the tenant's rent or terminating the
4 tenant's lease; ~~or~~

5 (5) engaging, in bad faith, in a course of conduct that
6 materially interferes with the tenant's rights under the tenant's
7 lease; or

8 (6) directly or indirectly interfering or threatening
9 to interfere with the tenant's peaceful enjoyment of the premises.

10 SECTION 4. (a) The changes in law made by Section 24.005,
11 Property Code, as amended by this Act, and Section 92.025, Property
12 Code, as added by this Act, apply only to the purchase of leased
13 property at a foreclosure sale on or after the effective date of
14 this Act. The purchase of leased property at a foreclosure sale
15 before the effective date of this Act is governed by the law as it
16 existed immediately before the effective date of this Act, and that
17 law is continued in effect for that purpose.

18 (b) The changes in law made by Section 92.026, Property
19 Code, as added by this Act, apply only to a lease the effective date
20 of which is on or after the effective date of this Act. A lease the
21 effective date of which is before the effective date of this Act is
22 governed by the law as it existed immediately before the effective
23 date of this Act, and that law is continued in effect for that
24 purpose.

25 SECTION 5. This Act takes effect September 1, 2011.