

By: Miles

H.B. No. 2411

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a residential tenant's right to vacate a dwelling and
3 avoid liability for rent under certain circumstances following the
4 declaration of a state of disaster; providing a civil penalty.

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

6 SECTION 1. Subchapter A, Chapter 92, Property Code, is
7 amended by adding Section 92.0162 to read as follows:

8 Sec. 92.0162. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING
9 DECLARATION OF STATE OF DISASTER. (a) After the date the governor
10 by executive order or proclamation declares a state of disaster
11 under Chapter 418, Government Code, a tenant may terminate the
12 tenant's rights and obligations under a lease and may vacate the
13 dwelling and avoid liability for future rent and any other sums due
14 under the lease for terminating the lease and vacating the dwelling
15 before the end of the lease term if as a result of the disaster, the
16 dwelling has been rendered uninhabitable or unusable for
17 residential purposes.

18 (b) For purposes of Subsection (a), a dwelling is
19 uninhabitable or unusable for residential purposes if, under
20 Section 418.0016, Government Code, an emergency management
21 director issues a written certification of the determination that
22 the dwelling is uninhabitable or unusable for residential purposes.

23 (c) A tenant whose dwelling has been certified as
24 uninhabitable or unusable as provided by Subsection (b) and is

1 located in a multiunit complex, as defined by Section 92.151, may
2 not exercise a right under Subsection (a) if the landlord offers to
3 the tenant, on the same terms as the lease for the dwelling
4 certified as uninhabitable or unusable, a dwelling that is:

5 (1) substantially similar to the dwelling certified as
6 uninhabitable or unusable; and

7 (2) located in the same multiunit complex.

8 (d) A tenant may exercise the right under Subsection (a) to
9 terminate the lease, vacate the dwelling before the end of the lease
10 term, and avoid liability beginning on the date after all of the
11 following events have occurred:

12 (1) the governor by executive order or proclamation
13 has declared a state of disaster under Chapter 418, Government
14 Code;

15 (2) the tenant has provided written notice to the
16 landlord that the tenant is exercising the tenant's rights under
17 this section; and

18 (3) the tenant has vacated the dwelling.

19 (e) Notice under Subsection (d)(2) is effective on the date
20 the tenant provides actual notice or notice to the landlord in
21 accordance with the general notice provisions in the tenant's
22 lease.

23 (f) Except as provided by Subsection (g), this section does
24 not affect a tenant's liability for delinquent, unpaid rent or
25 other sums owed to the landlord before the lease was terminated by
26 the tenant under this section.

27 (g) A tenant who terminates a lease under this section is

1 released from all liability for any delinquent, unpaid rent owed to
2 the landlord by the tenant on the effective date of the lease
3 termination described by Subsection (e) if the lease does not
4 contain conspicuous language, printed in 14-point boldface type or
5 14-point uppercase typewritten letters, that is substantially
6 equivalent to the following:

7 "Tenants may have special statutory rights to avoid liability
8 for rent in certain situations involving the declaration of a state
9 of disaster by the governor."

10 (h) A landlord violates this section if the landlord:

11 (1) charges a tenant who has exercised the tenant's
12 rights under this section rent or other sums due under the lease; or

13 (2) otherwise holds a tenant who has exercised the
14 tenant's rights under this section liable for rent or other sums due
15 under the lease.

16 (i) A landlord who violates this section is liable to the
17 tenant for actual damages, a civil penalty equal to the amount of
18 one month's rent plus \$500, and attorney's fees.

19 (j) A tenant may not waive the tenant's right to exercise
20 the tenant's rights under this section.

21 SECTION 2. Section 92.006(g), Property Code, is amended to
22 read as follows:

23 (g) A tenant's right to vacate a dwelling and avoid
24 liability under Section 92.016, 92.0162, or 92.017 may not be
25 waived by a tenant or a landlord, except as provided by those
26 sections.

27 SECTION 3. Subchapter E, Chapter 418, Government Code, is

1 amended by adding Section 418.1016 to read as follows:

2 Sec. 418.1016. CERTIFICATION OF LEASED DWELLINGS. (a) On
3 request of any person, an emergency management director shall
4 determine whether a leased dwelling is uninhabitable or unusable
5 for residential purposes, for purposes of Section 92.0162, Property
6 Code.

7 (b) Not later than the 30th day after the date a request is
8 mailed to the emergency management director by certified mail,
9 return receipt requested, the director shall issue to the requestor
10 a written certification of the determination made under Subsection
11 (a).

12 SECTION 4. The change in law made by this Act applies only
13 to a lease that is executed or renewed on or after the effective
14 date of this Act. A lease that is executed or renewed before the
15 effective date of this Act is governed by the law in effect at the
16 time the lease was executed or renewed, and that law is continued in
17 effect for that purpose.

18 SECTION 5. This Act takes effect January 1, 2012.