

By: Thompson

H.B. No. 2714

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to judicial review of a decision to terminate certain  
3 federal housing assistance.

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

5 SECTION 1. Section 392.006, Local Government Code, is  
6 amended to read as follows:

7 Sec. 392.006. UNIT OF GOVERNMENT; GOVERNMENTAL FUNCTIONS.  
8 For all purposes, including the application of the Texas Tort  
9 Claims Act (Chapter 101, Civil Practice and Remedies Code), a  
10 housing authority is a unit of government and the functions of a  
11 housing authority are essential governmental functions and not  
12 proprietary functions. Provided, however, a housing authority  
13 shall be subject to all landlord obligations and tenant remedies,  
14 other than a suit for personal injuries, as set forth in any lease  
15 or rental agreement and in Chapters 24, 54, 91, 92, and 301, ~~of~~  
16 ~~the~~ Property Code, and Section 392.105.

17 SECTION 2. Subchapter F, Chapter 392, Local Government  
18 Code, is amended by adding Section 392.105 to read as follows:

19 Sec. 392.105. JUDICIAL REVIEW OF TERMINATION OF  
20 TENANT-BASED ASSISTANCE. (a) In this section, "federal housing  
21 tenant-based assistance program" means:

22 (1) the housing choice voucher program or the disaster  
23 voucher program under Section 8, United States Housing Act of 1937  
24 (42 U.S.C. Section 1437f); or

1           (2) the disaster housing assistance program under the  
2 Robert T. Stafford Disaster Relief and Emergency Assistance Act (42  
3 U.S.C. Section 5121 et seq.).

4           (b) Notwithstanding any other law, a participant in a  
5 federal housing tenant-based assistance program whose tenant-based  
6 assistance is terminated by a housing authority may seek judicial  
7 review of the termination decision by filing suit in the state  
8 district court or the statutory county court of the county in which  
9 the participant resided through the use of that assistance.

10           (c) The filing of a petition for judicial review stays the  
11 termination if suit is filed not later than the 30th day after the  
12 date the termination decision by the housing authority becomes  
13 final.

14           (d) Review of the decision is by trial de novo. The court  
15 shall determine by a preponderance of the evidence whether the  
16 termination of the participant's tenant-based assistance was  
17 appropriate based on:

18                   (1) state and federal law;

19                   (2) regulations of the United States Department of  
20 Housing and Urban Development;

21                   (3) housing authority policies; and

22                   (4) factual determinations relating to the  
23 circumstances of the participant.

24           (e) The court may issue any temporary orders necessary to  
25 preserve its jurisdiction and on final judgment may grant all  
26 appropriate and necessary relief, including ordering retroactive  
27 reinstatement of the tenant-based assistance.

1           SECTION 3. The change in law made by this Act applies only  
2 to decisions to terminate tenant-based assistance that occur on or  
3 after the effective date of this Act. Termination decisions that  
4 occur before the effective date of this Act are governed by the law  
5 in effect when the termination decisions occurred, and the former  
6 law is continued in effect for that purpose.

7           SECTION 4. This Act takes effect September 1, 2011.