

By: Rodriguez of Travis

H.B. No. 1086

Substitute the following for H.B. No. 1086:

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C.S.H.B. No. 1086

A BILL TO BE ENTITLED

1 AN ACT
2 relating to interruption of electric service by a residential
3 landlord.

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

5 SECTION 1. Section 92.008, Property Code, is amended by
6 amending Subsections (b) and (f) and adding Subsections (h) through
7 (r) to read as follows:

8 (b) Except as provided by this section, a [A] landlord may
9 not interrupt or cause the interruption of water, wastewater, gas,
10 or electric service furnished to a tenant by the landlord as an
11 incident of the tenancy or by other agreement unless the
12 interruption results from bona fide repairs, construction, or an
13 emergency.

14 (f) If a landlord or a landlord's agent violates this
15 section, the tenant may:

16 (1) either recover possession of the premises or
17 terminate the lease; and

18 (2) in addition to other remedies available under
19 law, recover from the landlord an amount equal to the sum of the
20 tenant's actual damages, one month's rent plus \$1,000 [~~or \$500,~~
21 ~~whichever is greater~~], reasonable attorney's fees, and court costs,
22 less any delinquent rents or other sums for which the tenant is
23 liable to the landlord.

24 (h) Subject to Subsections (i), (j), (k), (m), and (o), a

1 landlord who submeters electricity or allocates or prorates
2 nonsubmetered master metered electricity may interrupt or cause the
3 interruption of electric service for nonpayment by the tenant of an
4 electric bill issued to the tenant if:

5 (1) the landlord's right to interrupt electric service
6 is provided by a written lease entered into by the tenant;

7 (2) the tenant's electric bill is not paid on or before
8 the 12th day after the date the electric bill is issued;

9 (3) advance written notice of the proposed
10 interruption is delivered to the tenant by mail or hand delivery
11 separately from any other written content that:

12 (A) prominently displays the words "electricity
13 termination notice" or similar language underlined or in bold;

14 (B) includes:

15 (i) the date on which the electric service
16 will be interrupted;

17 (ii) a location where the tenant may go
18 during the landlord's normal business hours to make arrangements to
19 pay the bill to avoid interruption of electric service;

20 (iii) the amount that must be paid to avoid
21 interruption of electric service;

22 (iv) a statement providing that when the
23 tenant makes a payment to avoid interruption of electric service,
24 the landlord may not apply that payment to rent or other amounts
25 owed under the lease;

26 (v) a statement providing that the landlord
27 may not evict a tenant for failure to pay an electric bill when the

1 landlord has interrupted the tenant's electric service unless the
2 tenant fails to pay for the electric service after the electric
3 service has been interrupted for at least two days, not including
4 weekends or state or federal holidays; and

5 (vi) a description of the tenant's rights
6 under Subsection (j) to avoid interruption of electric service if
7 the interruption will cause a person residing in the tenant's
8 dwelling to become seriously ill or more seriously ill; and

9 (C) is delivered not earlier than the first day
10 after the bill is past due or later than the fifth day before the
11 interruption date stated in the notice; and

12 (4) the landlord, at the same time the service is
13 interrupted, hand delivers or places on the tenant's front door a
14 written notice that:

15 (A) prominently displays the words "electricity
16 termination notice" or similar language underlined or in bold; and

17 (B) includes:

18 (i) the date the electric service has been
19 interrupted;

20 (ii) a location where the tenant may go
21 during the landlord's normal business hours to make arrangements to
22 pay the bill to reestablish interrupted electric service;

23 (iii) the amount that must be paid to
24 reestablish electric service;

25 (iv) a statement providing that when the
26 tenant makes a payment to reestablish electric service, a landlord
27 may not apply that payment to rent or other amounts owed under the

1 lease;

2 (v) a statement providing that the landlord
3 may not evict a tenant for failure to pay an electric bill when the
4 landlord has interrupted the tenant's electric service unless the
5 tenant fails to pay for the electric service after the electric
6 service has been interrupted for at least two days, not including
7 weekends or state or federal holidays; and

8 (vi) a description of the tenant's rights
9 under Subsection (j) to avoid interruption of electric service if
10 the interruption will cause a person residing in the tenant's
11 dwelling to become seriously ill or more seriously ill.

12 (i) Unless a dangerous condition exists or the tenant
13 requests disconnection, a landlord may not interrupt or cause the
14 interruption of electric service under Subsection (h) on a day:

15 (1) on which the landlord or a representative of the
16 landlord is not available to collect electric bill payments and
17 reestablish electric service;

18 (2) that immediately precedes a day described by
19 Subdivision (1); or

20 (3) on which:

21 (A) the previous day's highest temperature did
22 not exceed 32 degrees Fahrenheit and the temperature is predicted
23 to remain at or below that level for the next 24 hours according to
24 the nearest National Weather Service reports; or

25 (B) the National Weather Service issues a heat
26 advisory for a county in which the premises is located or has issued
27 such an advisory on one of the two preceding days.

1 (j) A landlord may not interrupt or cause the interruption
2 of electric service under Subsection (h) of a tenant who, before the
3 interruption date specified in the notice required by Subsection
4 (h)(3), has:

5 (1) established that the interruption will cause a
6 person residing in the tenant's dwelling to become seriously ill or
7 more seriously ill by having a physician, nurse, nurse
8 practitioner, or other similar licensed health care practitioner
9 attending to the person who is or may become ill provide a written
10 statement to the landlord or a representative of the landlord
11 stating that the person will become seriously ill or more seriously
12 ill if the electric service is interrupted; and

13 (2) entered into a deferred payment plan that complies
14 with Subsection (l).

15 (k) If a tenant has established, in accordance with
16 Subsection (j), the circumstances necessary to avoid electric
17 service interruption under that subsection, the landlord may not
18 interrupt or cause the interruption of the tenant's electric
19 service under Subsection (h) before:

20 (1) the 63rd day after the date those circumstances
21 are established; or

22 (2) an earlier date agreed to by the landlord and the
23 tenant.

24 (l) A deferred payment plan for the purposes of this section
25 must be in writing. The deferred payment plan must allow the tenant
26 to pay the outstanding electric bill in installments that extend
27 beyond the due date of the next electric bill and must provide that

1 the delinquent amount may be paid in equal installments over a
2 period equal to at least three electric service billing cycles.

3 (m) A landlord may not interrupt or cause the interruption
4 of electric service under Subsection (h) to a tenant who receives
5 energy assistance for a billing period during which the landlord
6 receives a pledge, letter of intent, purchase order, or other
7 notification that the energy assistance provider is forwarding
8 sufficient payment to continue the electric service.

9 (n) If a delinquent electric bill is paid, or a deferred
10 payment plan is entered into, during normal business hours, the
11 landlord shall reconnect the tenant's electric service within two
12 hours of payment or entry into the deferred payment plan.

13 (o) A landlord may not interrupt or cause the interruption
14 of electric service under Subsection (h) for any of the following
15 reasons:

16 (1) a delinquency in payment for electric service
17 furnished to a previous tenant;

18 (2) failure to pay non-electric bills, rent, or other
19 fees;

20 (3) failure to pay electric bills that are six or more
21 months delinquent; or

22 (4) failure to pay an electric bill disputed by the
23 tenant, unless the landlord has conducted an investigation as
24 required by the particular case and reported the results in writing
25 to the tenant.

26 (p) A landlord who provides notice in accordance with
27 Subsection (h) may not apply a payment made by a tenant to avoid

1 interruption of electric service or reestablish electric service to
2 rent or any other amounts owed under the lease.

3 (g) The landlord may not evict a tenant for failure to pay an
4 electric bill when the landlord has interrupted the tenant's
5 electric service under Subsection (h) unless the tenant fails to
6 pay for the electric service after the electric service has been
7 interrupted for at least two days, not including weekends or state
8 or federal holidays.

9 (r) Subject to this subsection, a reconnection fee may be
10 applied if electric service to the tenant is disconnected for
11 nonpayment of bills under Subsection (h). The reconnection fee
12 must be computed based on the average cost to the landlord for the
13 expenses associated with the reconnection, but may not exceed \$10.
14 A reconnection fee may not be applied unless agreed to by the tenant
15 in a written lease that states the exact dollar amount of the
16 reconnection fee. A fee may not be applied to a deferred payment
17 plan entered into under this section.

18 SECTION 2. The change in law made by this Act applies only
19 to an electric bill that becomes delinquent on or after the
20 effective date of this Act. An electric bill that becomes
21 delinquent before the effective date of this Act is governed by the
22 law applicable to the delinquency immediately before the effective
23 date of this Act, and that law is continued in effect for that
24 purpose.

25 SECTION 3. This Act takes effect September 1, 2013.