

1-1 By: Rodriguez of Travis, Bohac H.B. No. 1086
 1-2 (Senate Sponsor - Eltife)
 1-3 (In the Senate - Received from the House May 2, 2013;
 1-4 May 3, 2013, read first time and referred to Committee on Business
 1-5 and Commerce; May 14, 2013, reported favorably by the following
 1-6 vote: Yeas 9, Nays 0; May 14, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to interruption of electric service by a residential
 1-21 landlord.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 92.008, Property Code, is amended by
 1-24 amending Subsections (b) and (f) and adding Subsections (h) through
 1-25 (r) to read as follows:

1-26 (b) Except as provided by this section, a [A] landlord may
 1-27 not interrupt or cause the interruption of water, wastewater, gas,
 1-28 or electric service furnished to a tenant by the landlord as an
 1-29 incident of the tenancy or by other agreement unless the
 1-30 interruption results from bona fide repairs, construction, or an
 1-31 emergency.

1-32 (f) If a landlord or a landlord's agent violates this
 1-33 section, the tenant may:

1-34 (1) either recover possession of the premises or
 1-35 terminate the lease; and

1-36 (2) in addition to other remedies available under
 1-37 law, recover from the landlord an amount equal to the sum of the
 1-38 tenant's actual damages, one month's rent plus \$1,000 [~~or \$500,~~
 1-39 ~~whichever is greater~~], reasonable attorney's fees, and court costs,
 1-40 less any delinquent rents or other sums for which the tenant is
 1-41 liable to the landlord.

1-42 (h) Subject to Subsections (i), (j), (k), (m), and (o), a
 1-43 landlord who submeters electricity or allocates or prorates
 1-44 nonsubmetered master metered electricity may interrupt or cause the
 1-45 interruption of electric service for nonpayment by the tenant of an
 1-46 electric bill issued to the tenant if:

1-47 (1) the landlord's right to interrupt electric service
 1-48 is provided by a written lease entered into by the tenant;

1-49 (2) the tenant's electric bill is not paid on or before
 1-50 the 12th day after the date the electric bill is issued;

1-51 (3) advance written notice of the proposed
 1-52 interruption is delivered to the tenant by mail or hand delivery
 1-53 separately from any other written content that:

1-54 (A) prominently displays the words "electricity
 1-55 termination notice" or similar language underlined or in bold;

1-56 (B) includes:
 1-57 (i) the date on which the electric service
 1-58 will be interrupted;

1-59 (ii) a location where the tenant may go
 1-60 during the landlord's normal business hours to make arrangements to
 1-61 pay the bill to avoid interruption of electric service;

2-1 (iii) the amount that must be paid to avoid
 2-2 interruption of electric service;
 2-3 (iv) a statement providing that when the
 2-4 tenant makes a payment to avoid interruption of electric service,
 2-5 the landlord may not apply that payment to rent or other amounts
 2-6 owed under the lease;
 2-7 (v) a statement providing that the landlord
 2-8 may not evict a tenant for failure to pay an electric bill when the
 2-9 landlord has interrupted the tenant's electric service unless the
 2-10 tenant fails to pay for the electric service after the electric
 2-11 service has been interrupted for at least two days, not including
 2-12 weekends or state or federal holidays; and
 2-13 (vi) a description of the tenant's rights
 2-14 under Subsection (j) to avoid interruption of electric service if
 2-15 the interruption will cause a person residing in the tenant's
 2-16 dwelling to become seriously ill or more seriously ill; and
 2-17 (C) is delivered not earlier than the first day
 2-18 after the bill is past due or later than the fifth day before the
 2-19 interruption date stated in the notice; and
 2-20 (4) the landlord, at the same time the service is
 2-21 interrupted, hand delivers or places on the tenant's front door a
 2-22 written notice that:
 2-23 (A) prominently displays the words "electricity
 2-24 termination notice" or similar language underlined or in bold; and
 2-25 (B) includes:
 2-26 (i) the date the electric service has been
 2-27 interrupted;
 2-28 (ii) a location where the tenant may go
 2-29 during the landlord's normal business hours to make arrangements to
 2-30 pay the bill to reestablish interrupted electric service;
 2-31 (iii) the amount that must be paid to
 2-32 reestablish electric service;
 2-33 (iv) a statement providing that when the
 2-34 tenant makes a payment to reestablish electric service, a landlord
 2-35 may not apply that payment to rent or other amounts owed under the
 2-36 lease;
 2-37 (v) a statement providing that the landlord
 2-38 may not evict a tenant for failure to pay an electric bill when the
 2-39 landlord has interrupted the tenant's electric service unless the
 2-40 tenant fails to pay for the electric service after the electric
 2-41 service has been interrupted for at least two days, not including
 2-42 weekends or state or federal holidays; and
 2-43 (vi) a description of the tenant's rights
 2-44 under Subsection (j) to avoid interruption of electric service if
 2-45 the interruption will cause a person residing in the tenant's
 2-46 dwelling to become seriously ill or more seriously ill.
 2-47 (i) Unless a dangerous condition exists or the tenant
 2-48 requests disconnection, a landlord may not interrupt or cause the
 2-49 interruption of electric service under Subsection (h) on a day:
 2-50 (1) on which the landlord or a representative of the
 2-51 landlord is not available to collect electric bill payments and
 2-52 reestablish electric service;
 2-53 (2) that immediately precedes a day described by
 2-54 Subdivision (1); or
 2-55 (3) on which:
 2-56 (A) the previous day's highest temperature did
 2-57 not exceed 32 degrees Fahrenheit and the temperature is predicted
 2-58 to remain at or below that level for the next 24 hours according to
 2-59 the nearest National Weather Service reports; or
 2-60 (B) the National Weather Service issues a heat
 2-61 advisory for a county in which the premises is located or has issued
 2-62 such an advisory on one of the two preceding days.
 2-63 (j) A landlord may not interrupt or cause the interruption
 2-64 of electric service under Subsection (h) of a tenant who, before the
 2-65 interruption date specified in the notice required by Subsection
 2-66 (h)(3), has:
 2-67 (1) established that the interruption will cause a
 2-68 person residing in the tenant's dwelling to become seriously ill or
 2-69 more seriously ill by having a physician, nurse, nurse

3-1 practitioner, or other similar licensed health care practitioner
 3-2 attending to the person who is or may become ill provide a written
 3-3 statement to the landlord or a representative of the landlord
 3-4 stating that the person will become seriously ill or more seriously
 3-5 ill if the electric service is interrupted; and

3-6 (2) entered into a deferred payment plan that complies
 3-7 with Subsection (l).

3-8 (k) If a tenant has established, in accordance with
 3-9 Subsection (j), the circumstances necessary to avoid electric
 3-10 service interruption under that subsection, the landlord may not
 3-11 interrupt or cause the interruption of the tenant's electric
 3-12 service under Subsection (h) before:

3-13 (1) the 63rd day after the date those circumstances
 3-14 are established; or

3-15 (2) an earlier date agreed to by the landlord and the
 3-16 tenant.

3-17 (1) A deferred payment plan for the purposes of this section
 3-18 must be in writing. The deferred payment plan must allow the tenant
 3-19 to pay the outstanding electric bill in installments that extend
 3-20 beyond the due date of the next electric bill and must provide that
 3-21 the delinquent amount may be paid in equal installments over a
 3-22 period equal to at least three electric service billing cycles.

3-23 (m) A landlord may not interrupt or cause the interruption
 3-24 of electric service under Subsection (h) to a tenant who receives
 3-25 energy assistance for a billing period during which the landlord
 3-26 receives a pledge, letter of intent, purchase order, or other
 3-27 notification that the energy assistance provider is forwarding
 3-28 sufficient payment to continue the electric service.

3-29 (n) If a delinquent electric bill is paid, or a deferred
 3-30 payment plan is entered into, during normal business hours, the
 3-31 landlord shall reconnect the tenant's electric service within two
 3-32 hours of payment or entry into the deferred payment plan.

3-33 (o) A landlord may not interrupt or cause the interruption
 3-34 of electric service under Subsection (h) for any of the following
 3-35 reasons:

3-36 (1) a delinquency in payment for electric service
 3-37 furnished to a previous tenant;

3-38 (2) failure to pay non-electric bills, rent, or other
 3-39 fees;

3-40 (3) failure to pay electric bills that are six or more
 3-41 months delinquent; or

3-42 (4) failure to pay an electric bill disputed by the
 3-43 tenant, unless the landlord has conducted an investigation as
 3-44 required by the particular case and reported the results in writing
 3-45 to the tenant.

3-46 (p) A landlord who provides notice in accordance with
 3-47 Subsection (h) may not apply a payment made by a tenant to avoid
 3-48 interruption of electric service or reestablish electric service to
 3-49 rent or any other amounts owed under the lease.

3-50 (q) The landlord may not evict a tenant for failure to pay an
 3-51 electric bill when the landlord has interrupted the tenant's
 3-52 electric service under Subsection (h) unless the tenant fails to
 3-53 pay for the electric service after the electric service has been
 3-54 interrupted for at least two days, not including weekends or state
 3-55 or federal holidays.

3-56 (r) Subject to this subsection, a reconnection fee may be
 3-57 applied if electric service to the tenant is disconnected for
 3-58 nonpayment of bills under Subsection (h). The reconnection fee
 3-59 must be computed based on the average cost to the landlord for the
 3-60 expenses associated with the reconnection, but may not exceed \$10.
 3-61 A reconnection fee may not be applied unless agreed to by the tenant
 3-62 in a written lease that states the exact dollar amount of the
 3-63 reconnection fee. A fee may not be applied to a deferred payment
 3-64 plan entered into under this section.

3-65 SECTION 2. The change in law made by this Act applies only
 3-66 to an electric bill that becomes delinquent on or after the
 3-67 effective date of this Act. An electric bill that becomes
 3-68 delinquent before the effective date of this Act is governed by the
 3-69 law applicable to the delinquency immediately before the effective

4-1 date of this Act, and that law is continued in effect for that
4-2 purpose.

4-3 SECTION 3. This Act takes effect September 1, 2013.

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