

By: Clardy

H.B. No. 1821

A BILL TO BE ENTITLED

1 AN ACT
2 relating to a late fee for failing to pay rent under a residential
3 lease.

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

5 SECTION 1. Section 92.019, Property Code, is amended by
6 amending Subsections (a) and (e) and adding Subsection (a-1) to
7 read as follows:

8 (a) A late fee under this section may include an initial fee
9 and a daily fee for each day the rent continues to remain unpaid.

10 (a-1) A landlord may not charge a tenant a late fee for
11 failing to pay rent unless:

12 (1) notice of the fee is included in a written lease;

13 (2) the initial fee does not exceed eight percent of
14 one month's rent and each subsequent daily fee does not exceed two
15 percent of one month's [~~is a reasonable estimate of uncertain~~
16 ~~damages to the landlord that are incapable of precise calculation~~
17 ~~and result from late payment of]~~ rent; and

18 (3) the rent has remained unpaid one full day after the
19 date the rent was originally due.

20 (e) This section relates only to a fee, charge, or other sum
21 of money required to be paid under the lease if rent is not paid as
22 provided by Subsection (a-1)(3) [~~(a)(3)~~], and does not affect the
23 landlord's right to terminate the lease or take other action
24 permitted by the lease or other law. Payment of the fee, charge, or

1 other sum of money by a tenant does not waive the right or remedies
2 provided by this section.

3 SECTION 2. Section 92.019(b), Property Code, is repealed.

4 SECTION 3. Section 92.019, Property Code, as amended by
5 this Act, applies only to a lease entered into or renewed on or
6 after the effective date of this Act. A lease entered into or
7 renewed before the effective date of this Act is governed by the law
8 as it existed immediately before the effective date of this Act, and
9 that law is continued in effect for that purpose.

10 SECTION 4. This Act takes effect January 1, 2018.