

By: Neave

H.B. No. 3401

A BILL TO BE ENTITLED

AN ACT

relating to methods of payment of rent and security deposits to residential landlords and authorizing associated service charges.

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

SECTION 1. Section 92.011, Property Code, is amended to read as follows:

Sec. 92.011. [~~CASH~~] RENTAL AND SECURITY DEPOSIT PAYMENTS; SERVICE CHARGES. (a) In this section, "electronic funds transfer" means any transfer of money, other than a transaction originated by check, money order, or other traceable or negotiable instrument, that is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape and that orders, instructs, or authorizes a financial institution to debit or credit an account. The term includes a point-of-sale transfer, direct deposit or withdrawal of money, transfer through an automated clearinghouse, transfer initiated electronically that delivers a paper instrument, and transfer authorized in advance to recur at substantially regular intervals.

(b) Except as provided by Subsection (d), a landlord shall permit a tenant to pay rent or a security deposit by at least one method of payment other than cash or an electronic funds transfer.

(c) A landlord shall accept a tenant's timely cash rental payment unless a written lease between the landlord and tenant requires the tenant to make rental payments by a method other than

1 cash, provided that the written lease complies with Subsection (b)
2 [check, money order, or other traceable or negotiable instrument].

3 (d) A landlord may require cash as the exclusive method of
4 payment of rent or a security deposit for a tenant whose immediately
5 preceding payment to the landlord was by a method of payment that
6 was refused or dishonored for insufficient funds or canceled by the
7 tenant. The landlord may not require cash as the exclusive form of
8 payment for more than three months after the date the tenant
9 tendered the refused, dishonored, or canceled payment to the
10 landlord.

11 (e) A tenant must pay to a landlord that requires cash
12 payment under Subsection (d) the amounts due to the landlord in cash
13 for the period determined by the landlord, subject to Subsection
14 (d), only if the landlord:

15 (1) provides written notice to the tenant that the
16 tenant's previous payment was refused, dishonored, or canceled; and

17 (2) attaches to the notice a copy or other evidence of
18 the refused, dishonored, or canceled payment.

19 (f) [~~(b)~~] A landlord who receives a cash rental or security
20 deposit payment shall:

21 (1) provide the tenant with a written receipt; and

22 (2) enter the payment date and amount in a record book
23 maintained by the landlord.

24 (g) A landlord may collect a service charge for processing a
25 payment of rent or a security deposit by electronic funds transfer
26 in an amount not to exceed the amount of the service charge
27 authorized under Section 501.176, Transportation Code, for

1 processing a payment for a certificate of title or registration for
2 a motor vehicle by electronic funds transfer. A landlord may not
3 collect a service charge for processing a payment of rent or a
4 security deposit by any method of payment other than electronic
5 funds transfer.

6 (h) A provision of a lease that purports to waive a right or
7 exempt a party from a liability under this section is void.

8 [~~(c)~~] A tenant or a governmental entity or civic association
9 acting on the tenant's behalf may file suit against a landlord to
10 enjoin a violation of Subsection (c) [~~this section~~]. A party who
11 prevails in a suit brought under this subsection may recover court
12 costs and reasonable attorney's fees from the other party. In
13 addition to court costs and reasonable attorney's fees, a tenant
14 who prevails under this subsection may recover from the landlord
15 the greater of one month's rent or \$500 for each violation of this
16 section.

17 SECTION 2. Section 92.011, Property Code, as amended by
18 this Act, applies only to a lease entered into or renewed on or
19 after the effective date of this Act. A lease entered into or
20 renewed before the effective date of this Act is governed by the law
21 as it existed immediately before the effective date of this Act, and
22 that law is continued in effect for that purpose.

23 SECTION 3. This Act takes effect September 1, 2017.