86R22248 PMO-F

By:  Farrar H.B. No. 3564

Substitute the following for H.B. No. 3564:

By:  Collier C.S.H.B. No. 3564

A BILL TO BE ENTITLED

AN ACT

relating to remedies after certain casualty losses to residential rental premises.

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

SECTION 1.  Section 92.054, Property Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1), (b-2), (b-3), (b-4), (b-5), (d), (e), (f), (g), (h), and (i) to read as follows:

(b)  If after a casualty loss the rental premises are as a practical matter totally unusable for residential purposes and if the casualty loss is not caused by the negligence or fault of the tenant, a member of the tenant's family, or a guest or invitee of the tenant, either the landlord or the tenant may terminate the lease by giving written notice to the other any time before repairs are completed.

(b-1)  A notice described by Subsection (b) must be sent:

(1)  to a landlord:

(A)  by hand delivery to the landlord or the landlord's representative;

(B)  on the same day by:

(i)  e-mail to an e-mail address that the tenant and the landlord regularly used to communicate about the rental premises; and

(ii)  the method described by Paragraph (C);

(C)  by mail to:

(i)  the forwarding address that the landlord provided to the tenant by e-mail or otherwise; or

(ii)  if the landlord did not provide a forwarding address to the tenant, the place where the tenant normally pays rent; or

(D)  by any other method, manner, or means of delivery to which the landlord and tenant agree after the casualty loss; or

(2)  to a tenant:

(A)  by hand delivery;

(B)  on the same day by:

(i)  e-mail to an e-mail address that the tenant and the landlord regularly used to communicate about the rental premises; and

(ii)  the method described by Paragraph (C);

(C)  by mail to:

(i)  the forwarding address that the tenant provided to the landlord by e-mail or otherwise; or

(ii)  if the tenant did not provide a forwarding address to the landlord, the tenant's rental premises; or

(D)  by any other method, manner, or means of delivery to which the landlord and tenant agree after the casualty loss.

(b-2)  A termination of a lease as authorized by Subsection (b) may not take effect before the seventh day after the date the notice is delivered. If more than one method under Subsection (b-1) is used to provide notice, the method under which the notice was delivered on the earliest date applies for purposes of this subsection.

(b-3)  A landlord may not charge rent for the rental premises and rent for the rental premises may not accrue after the date:

(1)  the lease is terminated under this section; and

(2)  the tenant has vacated the rental premises.

(b-4)  Subject to Subsection (b-5), the landlord, not later than the 30th day after the date [~~If~~] the lease is terminated under this section and the tenant has vacated the rental premises, shall refund to the tenant any prepaid rent and prorated [~~is entitled only to a pro rata refund of~~] rent and all deposits, less lawful deductions. A landlord may not include in the lawful deductions any damages incurred due to the casualty loss [~~from the date the tenant moves out and to a refund of any security deposit otherwise required by law~~].

(b-5)  If a landlord is unable to send to the tenant a refund under Subsection (b-4) because the tenant has not provided a forwarding address to the landlord, the 30-day period under Subsection (b-4) is tolled until the date the tenant provides a forwarding address to the landlord.

(c)  If after a casualty loss the rental premises are partially unusable for residential purposes and if the casualty loss is not caused by the negligence or fault of the tenant, a member of the tenant's family, or a guest or invitee of the tenant, the tenant is entitled to reduction in the rent in an amount that is proportionate to the extent the premises are unusable because of the casualty loss for the month in which the casualty loss occurs and any subsequent months in the lease term in which the rental premises are partially unusable for residential purposes[~~, but only on judgment of a county or district court. A landlord and tenant may agree otherwise in a written lease~~].

(d)  A tenant entitled to a reduction in rent under Subsection (c) must give written notice to the individual to whom or the entity to which the tenant normally pays rent. The notice must:

(1)  identify the portion of the rental premises that is partially unusable for residential purposes;

(2)  state the proposed amount of reduction in rent that the tenant believes is appropriate; and

(3)  state that the tenant intends to file suit against the landlord if the landlord does not agree to the proposed reduction in rent on or before the 10th day after the date the landlord receives the notice under this subsection.

(e)  Not later than the 10th day after the date the landlord receives the notice under Subsection (d), the landlord must provide to the tenant a written response agreeing or objecting to the tenant's right to a reduction in rent due to casualty loss and the proposed amount. A landlord's failure to timely provide a written response under this subsection is considered an agreement by the landlord to the tenant's right to a reduction in rent and the proposed amount of the reduction and the tenant may withhold the proposed amount from a rent payment.

(f)  If the landlord and tenant are unable to agree on whether the tenant is entitled to a reduction in rent or on the amount of the proposed reduction, either party may file suit in justice, county, or district court. The court shall determine whether the tenant is entitled to a reduction in rent and, if so, the amount of the reduction that is proportionate to the extent the premises are unusable due to the casualty loss.

(g)  If a suit is filed under Subsection (f), the tenant is liable for rent due under the lease until the date the court enters a final judgment in the action or the parties reach an agreement to settle the dispute.

(h)  If a suit is filed in a justice court under Subsection (f), the justice court shall conduct a hearing on the matter not earlier than the sixth day after the date of service of citation and not later than the 10th day after that date.

(i)  It is a defense in a proceeding to recover possession of a rental premises after the landlord terminates a lease under Subsection (b) that the premises are usable for residential purposes.

SECTION 2.  The changes to law made by this Act apply only to a lease entered into or renewed on or after the effective date of this Act. A lease entered into or renewed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3.  This Act takes effect September 1, 2019.