

By: Walle

H.B. No. 970

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to notice requirements for a leased dwelling located in a  
3 floodplain.

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

5 SECTION 1. Subchapter A, Chapter 92, Property Code, is  
6 amended by adding Section 92.0132 to read as follows:

7 Sec. 92.0132. NOTICE FOR DWELLING LOCATED IN FLOODPLAIN.

8 (a) In this section:

9 (1) "100-year floodplain" means any area of land  
10 designated as a flood hazard area with a one percent or greater  
11 chance of flooding each year by the Federal Emergency Management  
12 Agency under the National Flood Insurance Act of 1968 (42 U.S.C.  
13 Section 4001 et seq.).

14 (2) "Flooding" means a general or temporary condition  
15 of partial or complete inundation of a dwelling caused by:

16 (A) the overflow of inland or tidal waters;

17 (B) the unusual and rapid accumulation of runoff  
18 or surface waters from any established water source such as a river,  
19 stream, or drainage ditch; or

20 (C) a ponding of water at or near the place where  
21 heavy or excessive rain fell.

22 (b) A landlord shall provide to a tenant a written notice  
23 substantially equivalent to the following:

24 "(Landlord) ( ) is or ( ) is not aware that the dwelling you

1 are renting is located in a 100-year floodplain. If neither box is  
2 checked, you should assume the dwelling is in a 100-year  
3 floodplain. Even if the dwelling is not in a 100-year floodplain,  
4 the dwelling may still be susceptible to flooding. The Federal  
5 Emergency Management Agency (FEMA) maintains a flood map on its  
6 website that is searchable by address, at no cost, to determine if a  
7 dwelling is located in a flood hazard area. Most tenant insurance  
8 policies do not cover damages or loss incurred in a flood. You  
9 should seek insurance coverage that would cover losses caused by a  
10 flood."

11 (c) Notwithstanding Subsection (b), a landlord is not  
12 required to disclose on the notice that the landlord is aware that a  
13 dwelling is located in a 100-year floodplain if the elevation of the  
14 dwelling is raised above the 100-year floodplain flood levels in  
15 accordance with federal regulations.

16 (d) If a landlord knows that flooding has damaged any  
17 portion of a dwelling at least once during the five-year period  
18 immediately preceding the effective date of the lease, the landlord  
19 shall provide a written notice to a tenant that is substantially  
20 equivalent to the following:

21 "(Landlord) ( ) is or ( ) is not aware that the dwelling you  
22 are renting has flooded at least once within the last five years."

23 (e) The notices required by Subsections (b) and (d) must be  
24 included in a separate written document given to the tenant before  
25 execution of the lease.

26 (f) If a landlord violates this section and a tenant suffers  
27 a substantial loss or damage to the tenant's personal property as a

1 result of flooding, the tenant may terminate the lease by giving a  
2 written notice of termination to the landlord not later than the  
3 30th day after the date the loss or damage occurred. Termination of  
4 a lease under this subsection is effective when the tenant  
5 surrenders possession of the dwelling.

6 (g) Not later than the 30th day after the effective date of  
7 the termination of a lease under Subsection (f), the landlord shall  
8 refund to the tenant all rent or other amounts paid in advance under  
9 the lease for any period after the effective date of the termination  
10 of the lease.

11 (h) This section does not affect a tenant's liability for  
12 delinquent, unpaid rent or other sums owed to the landlord before  
13 the date the lease was terminated by the tenant under this section.

14 SECTION 2. Section 92.0132, Property Code, as added by this  
15 Act, applies only to a lease agreement entered into or renewed on or  
16 after the effective date of this Act.

17 SECTION 3. This Act takes effect January 1, 2020.