

By: Farrar

H.B. No. 3556

A BILL TO BE ENTITLED

AN ACT

1
2 relating to notice to a prospective residential tenant regarding a
3 dwelling that is located in a floodplain or that has been damaged by
4 flooding.

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

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

8 Sec. 92.0132. NOTICE REGARDING FLOODPLAIN OR FLOOD
9 DAMAGE. (a) In this section:

10 (1) "Floodplain" means any area of land that is
11 located in a 100-year floodplain as determined by the most recent
12 flood hazard map published by the Federal Emergency Management
13 Agency under the National Flood Insurance Act of 1968 (42 U.S.C.
14 Section 4001 et seq.).

15 (2) "Residential property" means real property
16 containing one or more dwelling units.

17 (b) This section applies only to a landlord who offers a
18 residential property for lease knowing that:

19 (1) the property is located in a floodplain; or

20 (2) a structure on the property has previously
21 received water penetration from a flood caused by rainfall that
22 occurred during the four years preceding the date of the lease.

23 (c) Before entering into a lease with a prospective tenant,
24 a landlord or landlord's representative must inform the prospective

1 tenant in a written notice, signed by the landlord and the
2 prospective tenant, that, based on the landlord's knowledge and as
3 applicable:

4 (1) the residential property that is the subject of
5 the lease is located in a floodplain; or

6 (2) a structure on the property has previously
7 received water penetration from a flood caused by rainfall that
8 occurred during the four years preceding the date of the lease.

9 (d) If a landlord or a landlord's representative fails to
10 provide the notice required by Subsection (c) and a tenant suffers
11 loss of or damage to the tenant's personal property located on the
12 residential property as a result of a flood caused by rainfall, the
13 tenant may maintain possession of the premises under the terms of
14 the lease or, after the 10th day after the date the tenant provides
15 notice to terminate the lease to the landlord or the landlord's
16 representative, may terminate the lease. Regardless of whether the
17 tenant terminates the lease, the tenant is entitled to recover
18 damages and reasonable attorney's fees and court costs from the
19 landlord.

20 (e) A landlord or landlord's representative commits a
21 false, misleading, or deceptive act or practice within the meaning
22 of Sections 17.46(a) and (b), Business & Commerce Code, or fraud
23 within the meaning of Chapter 27, Business & Commerce Code, by
24 failing to provide the notice to a tenant as required by Subsection
25 (c). Any remedy under Subchapter E, Chapter 17, Business & Commerce
26 Code, or Chapter 27, Business & Commerce Code, is available to the
27 tenant.

1 SECTION 2. The changes in law made by this Act apply only to
2 a lease entered into on or after the effective date of this Act. A
3 lease entered into before that date is governed by the law
4 applicable to the lease immediately before the effective date of
5 this Act, and the former law is continued in effect for that
6 purpose.

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