

By: Hancock
(Phelan)

S.B. No. 1414

A BILL TO BE ENTITLED

AN ACT

relating to fees regarding a residential tenant's failure to timely pay rent.

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

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

(a) A landlord may not collect from ~~[charge]~~ a tenant a late fee for failing to pay any portion of the tenant's rent unless:

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

(2) the fee is ~~[a] reasonable [estimate of uncertain damages to the landlord that are incapable of precise calculation and result from late payment of rent]~~; and

(3) any portion of the tenant's rent has remained unpaid two ~~[one]~~ full days ~~[day]~~ after the date the rent was originally due.

(a-1) For purposes of this section, a late fee is considered reasonable if:

(1) the late fee is not more than:

(A) 12 percent of the amount of rent for the rental period under the lease for a dwelling located in a structure that contains not more than four dwelling units; or

(B) 10 percent of the amount of rent for the rental period under the lease for a dwelling located in a structure

1 that contains more than four dwelling units; or

2 (2) the late fee is more than the applicable amount
3 under Subdivision (1), but not more than uncertain damages to the
4 landlord related to the late payment of rent, including direct or
5 indirect expenses, direct or indirect costs, or overhead associated
6 with the collection of late payment.

7 (b) A late fee under this section may include an initial fee
8 and a daily fee for each day any portion of the tenant's rent
9 continues to remain unpaid, and the combined fees are considered a
10 single late fee for purposes of this section.

11 (c) A landlord who violates this section is liable to the
12 tenant for an amount equal to the sum of \$100, three times the
13 amount of the late fee collected [~~charged~~] in violation of this
14 section, and the tenant's reasonable attorney's fees.

15 SECTION 2. Subchapter A, Chapter 92, Property Code, is
16 amended by adding Section 92.0191 to read as follows:

17 Sec. 92.0191. STATEMENT OF LATE FEES. A tenant may request
18 that the landlord provide to the tenant a written statement of
19 whether the tenant owes a late fee to the landlord and, if so, the
20 amount of the late fee. The landlord may provide the statement to
21 the tenant by any established means regularly used for written
22 communication between the landlord and the tenant. A landlord's
23 failure to respond does not affect the tenant's liability for any
24 late fee owed to the landlord.

25 SECTION 3. Section 92.019, Property Code, as amended by
26 this Act, applies only to a late fee under a lease entered into or
27 renewed on or after the effective date of this Act. A late fee under

1 a lease entered into or renewed before the effective date of this
2 Act is governed by the law as it existed immediately before the
3 effective date of this Act, and that law is continued in effect for
4 that purpose.

5 SECTION 4. This Act takes effect September 1, 2019.