88R9945 KBB-D

By:  Cole H.B. No. 2592

A BILL TO BE ENTITLED

AN ACT

relating to a landlord's duty to provide and maintain a functioning air conditioning system or unit in an apartment.

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

SECTION 1.  Section 92.006, Property Code, is amended by adding Subsection (i) to read as follows:

(i)  A landlord's duty under Section 92.027 to provide and maintain a functioning air conditioning system or unit in an apartment unit may not be waived.

SECTION 2.  Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.027 to read as follows:

Sec. 92.027.  LANDLORD'S DUTY TO PROVIDE AIR CONDITIONING IN APARTMENT UNIT. A landlord shall provide and maintain in an apartment unit an air conditioning system or unit in good operating condition that maintains inside the apartment unit a temperature equal to the lower of:

(1)  85 degrees Fahrenheit; or

(2)  10 degrees Fahrenheit below the recorded temperature outside of the apartment unit.

SECTION 3.  Section 92.052(a), Property Code, is amended to read as follows:

(a)  A landlord shall make a diligent effort to repair or remedy a condition if:

(1)  the tenant specifies the condition in a notice to the person to whom or to the place where rent is normally paid;

(2)  the tenant is not delinquent in the payment of rent at the time notice is given; and

(3)  the condition:

(A)  materially affects the physical health or safety of an ordinary tenant; or

(B)  arises from the landlord's failure to provide and maintain in good operating condition:

(i)  a device to supply hot water of a minimum temperature of 120 degrees Fahrenheit; or

(ii)  an air conditioning system or unit as required by Section 92.027.

SECTION 4.  Section 92.056, Property Code, is amended by amending Subsections (b) and (d) and adding Subsections (h) and (i) to read as follows:

(b)  A landlord is liable to a tenant as provided by this subchapter if:

(1)  the tenant has given the landlord notice to repair or remedy a condition by giving that notice to the person to whom or to the place where the tenant's rent is normally paid;

(2)  the condition:

(A)  materially affects the physical health or safety of an ordinary tenant; or

(B)  arises from the landlord's failure to provide and maintain in good operating condition an air conditioning system or unit as required by Section 92.027;

(3)  the tenant has given the landlord a subsequent written notice to repair or remedy the condition after a reasonable time to repair or remedy the condition following the notice given under Subdivision (1) or the tenant has given the notice under Subdivision (1) by sending that notice by certified mail, return receipt requested, by registered mail, or by another form of mail that allows tracking of delivery from the United States Postal Service or a private delivery service;

(4)  the landlord has had a reasonable time to repair or remedy the condition after the landlord received the tenant's notice under Subdivision (1) and, if applicable, the tenant's subsequent notice under Subdivision (3);

(5)  the landlord has not made a diligent effort to repair or remedy the condition after the landlord received the tenant's notice under Subdivision (1) and, if applicable, the tenant's notice under Subdivision (3); and

(6)  the tenant was not delinquent in the payment of rent at the time any notice required by this subsection was given.

(d)  For purposes of Subsection (b)(3) or (4), in determining whether a period of time is a reasonable time to repair or remedy a condition, there is a rebuttable presumption that seven days is a reasonable time, except that five days is a reasonable time if the condition arises from the landlord's failure to provide and maintain in good operating condition an air conditioning system or unit as required by Section 92.027. To rebut that presumption, the date on which the landlord received the tenant's notice, the severity and nature of the condition, and the reasonable availability of materials and labor and of utilities from a utility company must be considered.

(h)  If a landlord is liable to a tenant under Subsection (b)(2)(B), the landlord shall provide at no cost to the tenant:

(1)  a portable air conditioning unit that maintains the temperature required by Section 92.027; or

(2)  alternative housing accommodations maintained at the temperature required by Section 92.027.

(i)  For purposes of Subsection (h), a portable air conditioning unit may be a portable window or floor unit or an evaporative cooler. The term does not include a portable fan that is not designed to lower the temperature of air in an enclosed space.

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

SECTION 6.  This Act takes effect September 1, 2023.