

By: Deshotel

H.B. No. 1429

Substitute the following for H.B. No. 1429:

By: Orr

C.S.H.B. No. 1429

A BILL TO BE ENTITLED

AN ACT

relating to rights and remedies of certain residential tenants and landlords; providing civil penalties.

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

SECTION 1. Effective January 1, 2012, Section 24.005, Property Code, is amended by amending Subsection (b) and adding Subsections (b-1), (b-2), (b-3), and (b-4) to read as follows:

(b) If the occupant is a tenant at will or by sufferance, the landlord must give the tenant at least three days' written notice to vacate before the landlord files a forcible detainer suit unless the parties have contracted for a shorter or longer notice period in a written lease or agreement.

(b-1) If the occupant is a bona fide residential tenant at will or by sufferance, a purchaser who purchases at a judicial or nonjudicial foreclosure sale the building that the tenant occupies must give the tenant at least 90 days' written notice to vacate.

(b-2) For purposes of this section, a residential tenant is bona fide only if the tenant:

(1) occupies the premises on the date of the foreclosure sale; and

(2) is not the mortgagor of the purchaser at the foreclosure sale or the child, spouse, or parent of the mortgagor.

~~[If a building is purchased at a tax foreclosure sale or a trustee's foreclosure sale under a lien superior to the tenant's lease and the~~

~~tenant timely pays rent and is not otherwise in default under the
tenant's lease after foreclosure, the purchaser must give a
residential tenant of the building at least 30 days' written notice
to vacate if the purchaser chooses not to continue the lease. The
tenant is considered to timely pay the rent under this subsection
if, during the month of the foreclosure sale, the tenant pays the
rent for that month to the landlord before receiving any notice that
a foreclosure sale is scheduled during the month or pays the rent
for that month to the foreclosing lienholder or the purchaser at
foreclosure not later than the fifth day after the date of receipt
of a written notice of the name and address of the purchaser that
requests payment.]~~

(b-3) Before a foreclosure sale, a foreclosing lienholder
may give [written notice] to a tenant at will or by sufferance or
under a written lease or oral rental agreement written notice
stating that a foreclosure notice has been given to the landlord or
owner of the property and specifying the date of the foreclosure.

(b-4) This subsection and Subsections (b-1), (b-2), and
(b-3) expire December 31, 2014.

SECTION 2. Effective January 1, 2015, Section 24.005,
Property Code, is amended by adding Subsections (b-1), (b-2), and
(b-3) to read as follows:

(b-1) If a building is purchased at a tax foreclosure sale
or a trustee's foreclosure sale under a lien superior to the
tenant's lease and the tenant timely pays rent and is not otherwise
in default under the tenant's lease after foreclosure, the
purchaser must give a residential tenant of the building at least 30

1 days' written notice to vacate if the purchaser chooses not to
2 continue the lease.

3 (b-2) The tenant is considered to timely pay the rent under
4 Subsection (b-1) if, during the month of the foreclosure sale, the
5 tenant pays the rent for that month to the landlord before receiving
6 any notice that a foreclosure sale is scheduled during the month or
7 pays the rent for that month to the foreclosing lienholder or the
8 purchaser at foreclosure not later than the fifth day after the date
9 of receipt of a written notice of the name and address of the
10 purchaser that requests payment.

11 (b-3) Before a foreclosure sale, a foreclosing lienholder
12 may give written notice to a tenant stating that a foreclosure
13 notice has been given to the landlord or owner of the property and
14 specifying the date of the foreclosure.

15 SECTION 3. Subchapter A, Chapter 92, Property Code, is
16 amended by adding Sections 92.025 and 92.026 to read as follows:

17 Sec. 92.025. EFFECT OF FORECLOSURE ON TENANCY. (a) The
18 purchaser of a premises at a judicial or nonjudicial foreclosure
19 sale may require a bona fide tenant of the premises to vacate only
20 after the purchaser provides to the tenant at least 90 days' written
21 notice to vacate.

22 (b) A bona fide tenant of a premises purchased at a judicial
23 or nonjudicial foreclosure sale may occupy the premises until the
24 later of:

25 (1) the date provided by the notice to vacate under
26 Subsection (a); or

27 (2)(A) the end of the remaining lease term; or

1 (B) if the purchaser intends to occupy the
2 premises as a primary residence, the date provided by the notice to
3 vacate under Subsection (a).

4 (c) For purposes of Subsection (b), a tenant may occupy the
5 premises as described by Subsection (b) only if the tenant:

6 (1) owes no delinquent or unpaid rent or other sums
7 owed to the landlord on the date of the foreclosure sale; and

8 (2) is a party to a lease agreement that is effective
9 on the date of the foreclosure sale.

10 (d) For purposes of this section, a tenant is bona fide only
11 if:

12 (1) the lease was the result of an arms-length
13 transaction;

14 (2) the lease requires receipt of rent that is not
15 substantially less than fair market rent for the premises; and

16 (3) the tenant is not the mortgagor of the purchaser at
17 the foreclosure sale or the child, spouse, or parent of the
18 mortgagor.

19 (e) This section expires December 31, 2014.

20 Sec. 92.026. LANDLORD'S DUTY TO PROVIDE COPY OF LEASE. (a)
21 Not later than the third business day after the date the lease is
22 signed by each party to the lease, a landlord shall provide at least
23 one copy of the lease to at least one tenant who is a party to the
24 lease.

25 (b) If more than one tenant is a party to the lease, not
26 later than the third business day after the date a landlord receives
27 a written request for a copy of a lease from a tenant who has not

1 received a copy of the lease under Subsection (a), the landlord
2 shall provide one copy of the lease to the requesting tenant.

3 (c) If a landlord fails to comply with Subsection (a) or
4 (b), a tenant, after giving written notice to the landlord of the
5 failure to comply with Subsection (a) or (b), may bring an action to
6 recover actual damages resulting from the failure to provide a copy
7 of the lease, court costs, and reasonable attorney's fees.

8 SECTION 4. Section 92.331(a), Property Code, is amended to
9 read as follows:

10 (a) A landlord may not retaliate against a tenant by taking
11 an action described by Subsection (b) because the tenant:

12 (1) in good faith exercises or attempts to exercise
13 against a landlord a right or remedy granted to the tenant by lease,
14 municipal ordinance, or federal or state statute;

15 (2) gives a landlord a notice to repair or exercise a
16 remedy under this chapter; ~~or~~

17 (3) complains to a governmental entity responsible for
18 enforcing building or housing codes, a public utility, or a civic or
19 nonprofit agency, and the tenant:

20 (A) claims a building or housing code violation
21 or utility problem; and

22 (B) believes in good faith that the complaint is
23 valid and that the violation or problem occurred; or

24 (4) establishes, attempts to establish, or
25 participates in a tenant organization.

26 SECTION 5. (a) The changes in law made by Section 24.005,
27 Property Code, as amended by this Act, effective January 1, 2012,

1 apply only to the purchase of leased property at a foreclosure sale
2 on or after January 1, 2012. The purchase of leased property at a
3 foreclosure sale before January 1, 2012, is governed by the law as
4 it existed immediately before January 1, 2012, and that law is
5 continued in effect for that purpose.

6 (b) The changes in law made by Section 24.005, Property
7 Code, as amended by this Act, effective January 1, 2015, apply only
8 to the purchase of leased property at a foreclosure sale on or after
9 January 1, 2015. The purchase of leased property at a foreclosure
10 sale before January 1, 2015, is governed by the law as it existed
11 immediately before January 1, 2015, and that law is continued in
12 effect for that purpose.

13 (c) The changes in law made by Section 92.025, Property
14 Code, as added by this Act, apply only to the purchase of leased
15 property at a foreclosure sale on or after the effective date of
16 this Act. The purchase of leased property at a foreclosure sale
17 before the effective date of this Act is governed by the law as it
18 existed immediately before the effective date of this Act, and that
19 law is continued in effect for that purpose.

20 (d) The changes in law made by Section 92.026, Property
21 Code, as added by this Act, apply only to a lease the effective date
22 of which is on or after the effective date of this Act. A lease the
23 effective date of which is before the effective date of this Act is
24 governed by the law as it existed immediately before the effective
25 date of this Act, and that law is continued in effect for that
26 purpose.

27 SECTION 6. This Act takes effect January 1, 2012.