

AN ACT

relating to notice of a landlord's motor vehicle towing or parking rules and policies and to liability arising from certain actions of a towing service; providing a civil penalty.

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

SECTION 1. Section 92.013(a), Property Code, is amended to read as follows:

(a) A landlord shall give prior written notice to a tenant regarding a landlord rule or policy change that is not included in the lease agreement and that will affect any personal property owned by the tenant that is located outside the tenant's dwelling. A landlord shall provide to the tenant in a multiunit complex, as that term is defined by Section 92.151, a copy of any applicable ~~including any change in~~ vehicle towing or parking rules or policies of the landlord and any changes to those rules or policies as provided by Section 92.0131.

SECTION 2. Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.0131 to read as follows:

Sec. 92.0131. NOTICE REGARDING VEHICLE TOWING OR PARKING RULES OR POLICIES. (a) This section applies only to a tenant in a multiunit complex, as that term is defined by Section 92.151.

(b) If at the time a lease agreement is executed a landlord has vehicle towing or parking rules or policies that apply to the tenant, the landlord shall provide to the tenant a copy of the rules

1 or policies before the lease agreement is executed. The copy of the
2 rules or policies must be:

3 (1) signed by the tenant;

4 (2) included in a lease agreement signed by the
5 tenant; or

6 (3) included in an attachment to the lease agreement
7 that is signed by the tenant, but only if the attachment is
8 expressly referred to in the lease agreement.

9 (c) If the rules or policies are contained in the lease
10 agreement or an attachment to the lease agreement, the title to the
11 paragraph containing the rules or policies must read "Parking" or
12 "Parking Rules" and be capitalized, underlined, or printed in bold
13 print.

14 (d) If a landlord changes the vehicle towing or parking
15 rules or policies during the term of the lease agreement, the
16 landlord shall provide written notice of the change to the tenant
17 before the tenant is required to comply with the rule or policy
18 change. The landlord has the burden of proving that the tenant
19 received a copy of the rule or policy change. The landlord may
20 satisfy that burden of proof by providing evidence that the
21 landlord:

22 (1) delivered the notice by certified mail, return
23 receipt requested, addressed to the tenant at the tenant's
24 dwelling; or

25 (2) made a notation in the landlord's files of the
26 time, place, and method of providing the notice and the name of the
27 person who delivered the notice by:

1 (A) hand delivery to the tenant or any occupant
2 of the tenant's dwelling over the age of 16 years at the tenant's
3 dwelling;

4 (B) facsimile to a facsimile number the tenant
5 provided to the landlord for the purpose of receiving notices; or

6 (C) taping the notice to the inside of the main
7 entry door of the tenant's dwelling.

8 (e) If a rule or policy change is made during the term of the
9 lease agreement, the change:

10 (1) must:

11 (A) apply to all of the landlord's tenants in the
12 same multiunit complex and be based on necessity, safety or
13 security of tenants, reasonable requirements for construction on
14 the premises, or respect for other tenants' parking rights; or

15 (B) be adopted based on the tenant's written
16 consent; and

17 (2) may not be effective before the 14th day after the
18 date notice of the change is delivered to the tenant, unless the
19 change is the result of a construction or utility emergency.

20 (f) A landlord who violates Subsection (b), (c), (d), or (e)
21 is liable for a civil penalty in the amount of \$100 plus any towing
22 or storage costs that the tenant incurs as a result of the towing of
23 the tenant's vehicle. The nonprevailing party in a suit under this
24 section is liable to the prevailing party for reasonable attorney's
25 fees and court costs.

26 (g) A landlord is liable for any damage to a tenant's
27 vehicle resulting from the negligence of a towing service that

1 contracts with the landlord or the landlord's agent to remove
2 vehicles that are parked in violation of the landlord's rules and
3 policies if the towing company that caused the damage does not carry
4 insurance that covers the damage.

5 SECTION 3. (a) The change in law made by Section
6 92.0131(b), Property Code, as added by this Act, applies only to a
7 lease agreement entered into or renewed on or after January 1, 2006.
8 A lease agreement entered into or renewed before January 1, 2006, is
9 governed by the law in effect when the lease was entered into or
10 renewed, and the former law is continued in effect for that purpose.

11 (b) The change in law made by Section 92.0131(g), Property
12 Code, as added by this Act, applies only to a negligent act that
13 occurs on or after January 1, 2006. A negligent act that occurs
14 before January 1, 2006, is governed by the law in effect when the
15 negligent act occurred, and the former law is continued in effect
16 for that purpose.

17 SECTION 4. This Act takes effect January 1, 2006.

David Swihart

President of the Senate

Jim Cusick

Speaker of the House

I certify that H.B. No. 1399 was passed by the House on May 13, 2005, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 1399 on May 27, 2005, by a non-record vote.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 1399 was passed by the Senate, with amendments, on May 25, 2005, by the following vote: Yeas 31, Nays 0.

Aetsy Saw

Secretary of the Senate

APPROVED:

18 JUNE '05

Date

Rick Peary

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
12:20 PM O'CLOCK

Roger Williams
Secretary of State