

BILL ANALYSIS

Senate Research Center
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H.B. 1086
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2009, the legislature passed H.B. 882 that prevented landlords from disconnecting utilities, but left them with eviction as the only remedy for nonpayment of electric bills by tenants.

H.B. 1086 will allow landlords who bill tenants for electric service through submetering or prorating electric bills to disconnect a tenant's electric service for nonpayment of electric service so long as proper notice is given to the tenant, interruption would not be detrimental to the health of the tenant, and/or repayment options are available.

Under H.B. 1086, in order for a landlord to disconnect electric service, he or she is required present a written lease as a reminder to the tenant and the electric bill is required to have remained unpaid for at least 12 days after the date the bill was issued. Requires that the notice provided to the tenant display the words "electricity termination notice;" provide the date that electric service will be interrupted if the bill remains unpaid; include the amount that is required to be paid; provide a location where the landlord may be met during business hours to accept payment; include a statement that the electric payment cannot be applied to rent or other amount owned under the lease; and describe the tenant's right to avoid interruption of services if interruption would cause the tenant to become seriously ill.

In addition, a landlord will be prohibited from discontinuing service on a day which the preceding day's temperature did not rise above freezing and the National Weather Service predicted the temperature to remain or fall further below freezing over the course of 24 hours. The same rule applies if there was a heat advisory issued in the area. Provisions encouraging deferred payment plans are also included.

H.B. 1086 includes many protections for tenants while also giving landlords alternative ways to collect unpaid utility bills rather than simply resorting to eviction.

H.B. 1086 amends current law relating to interruption of electric service by a residential landlord.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 92.008, Property Code, by amending Subsections (b) and (f) and adding Subsections (h) through (r), as follows:

(b) Prohibits a landlord, except as provided by this section, from interrupting or causing the interruption of water, wastewater, gas, or electric service furnished to a tenant by the landlord as an incident of the tenancy or by other agreement unless the interruption results from bona fide repairs, construction, or an emergency.

(f) Authorizes the tenant, if a landlord or a landlord's agent violates this section, to:

(1) Makes no change to this subdivision; and

(2) in addition to other remedies available under law, recover from the landlord an amount equal to the sum of the tenant's actual damages, one month's rent plus \$1,000, rather than one month's rent or \$500, whichever is greater, reasonable attorney's fees, and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.

(h) Authorizes a landlord who submeters electricity or allocates or prorates nonsubmetered master metered electricity, subject to Subsections (i), (j), (k), (m), and (o), to interrupt or cause the interruption of electric service for nonpayment by the tenant of an electric bill issued to the tenant if:

(1) the landlord's right to interrupt electric service is provided by a written lease entered into by the tenant;

(2) the tenant's electric bill is not paid on or before the 12th day after the date the electric bill is issued;

(3) advance written notice of the proposed interruption is delivered to the tenant by mail or hand delivery separately from any other written content that:

(A) prominently displays the words "electricity termination notice" or similar language underlined or in bold;

(B) includes:

(i) the date on which the electric service will be interrupted;

(ii) a location where the tenant is authorized to go during the landlord's normal business hours to make arrangements to pay the bill to avoid interruption of electric service;

(iii) the amount that is required to be paid to avoid interruption of electric service;

(iv) a statement providing that when the tenant makes a payment to avoid interruption of electric service, the landlord is prohibited from applying that payment to rent or other amounts owed under the lease;

(v) a statement providing that the landlord is prohibited from evicting a tenant for failure to pay an electric bill when the landlord has interrupted the tenant's electric service unless the tenant fails to pay for the electric service after the electric service has been interrupted for at least two days, not including weekends or state or federal holidays; and

(vi) a description of the tenant's rights under Subsection (j) to avoid interruption of electric service if the interruption will cause a person residing in the tenant's dwelling to become seriously ill or more seriously ill; and

(C) is delivered not earlier than the first day after the bill is past due or later than the fifth day before the interruption date stated in the notice; and

(4) the landlord, at the same time the service is interrupted, hand delivers or places on the tenant's front door a written notice that:

(A) prominently displays the words "electricity termination notice" or similar language underlined or in bold; and

(B) includes:

(i) the date the electric service has been interrupted;

(ii) a location where the tenant is authorized to go during the landlord's normal business hours to make arrangements to pay the bill to reestablish interrupted electric service;

(iii) the amount that is required to be paid to reestablish electric service;

(iv) a statement providing that when the tenant makes a payment to reestablish electric service, a landlord is prohibited from applying that payment to rent or other amounts owed under the lease;

(v) a statement providing that the landlord is prohibited from evicting a tenant for failure to pay an electric bill when the landlord has interrupted the tenant's electric service unless the tenant fails to pay for the electric service after the electric service has been interrupted for at least two days, not including weekends or state or federal holidays; and

(vi) a description of the tenant's rights under Subsection (j) to avoid interruption of electric service if the interruption will cause a person residing in the tenant's dwelling to become seriously ill or more seriously ill.

(i) Prohibits a landlord, unless a dangerous condition exists or the tenant requests disconnection, from interrupting or causing the interruption of electric service under Subsection (h) on a day:

(1) on which the landlord or a representative of the landlord is not available to collect electric bill payments and reestablish electric service;

(2) that immediately precedes a day described by Subdivision (1); or

(3) on which:

(A) the previous day's highest temperature did not exceed 32 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to the nearest National Weather Service reports; or

(B) the National Weather Service issues a heat advisory for a county in which the premises is located or has issued such an advisory on one of the two preceding days.

(j) Prohibits a landlord from interrupting or causing the interruption of electric service under Subsection (h) of a tenant who, before the interruption date specified in the notice required by Subsection (h)(3), has established that the interruption will cause a person residing in the tenant's dwelling to become seriously ill or more seriously ill by having a physician, nurse, nurse practitioner, or other similar licensed health care practitioner attending to the person who is or may become ill provide a written statement to the landlord or a representative of the landlord stating that the person will become seriously ill or more seriously ill if the electric service is interrupted, and entered into a deferred payment plan that complies with Subsection (l).

(k) Prohibits the landlord, if a tenant has established, in accordance with Subsection (j), the circumstances necessary to avoid electric service interruption under that subsection, from interrupting or causing the interruption of the tenant's electric service under Subsection (h) before the 63rd day after the date those circumstances are established or an earlier date agreed to by the landlord and the tenant.

(l) Requires that a deferred payment plan for the purposes of this section be in writing. Requires that the deferred payment plan allow the tenant to pay the outstanding electric bill in installments that extend beyond the due date of the next electric bill and is required to provide that the delinquent amount is authorized to be paid in equal installments over a period equal to at least three electric service billing cycles.

(m) Prohibits a landlord from interrupting or causing the interruption of electric service under Subsection (h) to a tenant who receives energy assistance for a billing period during which the landlord receives a pledge, letter of intent, purchase order, or other notification that the energy assistance provider is forwarding sufficient payment to continue the electric service.

(n) Requires the landlord, if a delinquent electric bill is paid, or a deferred payment plan is entered into, during normal business hours, to reconnect the tenant's electric service within two hours of payment or entry into the deferred payment plan.

(o) Prohibits a landlord from interrupting or causing the interruption of electric service under Subsection (h) for any of the following reasons:

- (1) a delinquency in payment for electric service furnished to a previous tenant;
- (2) failure to pay non-electric bills, rent, or other fees;
- (3) failure to pay electric bills that are six or more months delinquent; or
- (4) failure to pay an electric bill disputed by the tenant, unless the landlord has conducted an investigation as required by the particular case and reported the results in writing to the tenant.

(p) Prohibits a landlord who provides notice in accordance with Subsection (h) from applying a payment made by a tenant to avoid interruption of electric service or reestablish electric service to rent or any other amounts owed under the lease.

(q) Prohibits the landlord from evicting a tenant for failure to pay an electric bill when the landlord has interrupted the tenant's electric service under Subsection (h) unless the tenant fails to pay for the electric service after the electric service has been interrupted for at least two days, not including weekends or state or federal holidays.

(r) Authorizes a reconnection fee, subject to this subsection, to be applied if electric service to the tenant is disconnected for nonpayment of bills under Subsection (h). Requires that the reconnection fee be computed based on the average cost to the landlord for the expenses associated with the reconnection, but is prohibited from exceeding \$10. Prohibits a reconnection fee from being applied unless agreed to by the tenant in a written lease that states the exact dollar amount of the reconnection fee. Prohibits a fee from being applied to a deferred payment plan entered into under this section.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2013.