

NEW LAWS FOR TEXAS RESIDENTIAL LEASES

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There are new laws affecting multifamily leases in the state of Texas. While we see no monumental shifts, some of these changes can provide new revenue, while others will require amendments to your current lease form. Following is a summary of some of the new laws:

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1. WATER SUBMETERING SERVICE CHARGE NOW AUTHORIZED.

Senate Bill 2126 modifies §13.503 of the Water Code to allow the owner of an apartment complex containing five or more units where water use is submetered to have tenants pay a “service charge” of not more than nine percent of the submetered water costs and applicable taxes and surcharges that are charged by the retail public utility to the owner; however, the law specifically excludes Section 8 residents and apartments that have received an allocation of low income housing tax credits.

Discussion: The service charge was previously available for owners of mobile home rental communities, but the Legislature, in an effort to encourage submetering of water rather than master metering and allocation of water costs, expanded the service charge to apartments. It appears that the nine percent charge is to be calculated on the average water cost per gallon (or other measure) times the tenant’s usage, with the water cost including the taxes and surcharges to the owner. It should be noted, however, that the service charge calculation relates to submetered water costs and may not apply to the additional costs related to wastewater.

2. LATE FEES. House Bill 1109 modifies §92.019(a) of the Texas Property Code (the “TPC”) to clarify one of the requirements for charging late fees for rent by providing that the rent must have remained unpaid for at least one full day after the date originally due.

Discussion: The prior requirement was that the rent “remains unpaid after the second day after the date” originally due. The language was confusing. Now, if rent is due on the fifth and still not paid on the sixth, a late charge can be instituted on the seventh (assuming the other requirements of notice in the lease and reasonability are met).

3. SIREN ACTIVATED GATE OPENERS. House Bill 1063 adds §352.1145 to the Local Government Code and allows the County Commissioner’s Court to require that electric gates to a gated multifamily project located outside of municipal boundaries open on the sounding of an emergency vehicle siren.

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