

Housing Rights **ADVOCATE**

Austin Tenants' Council • Issue 54, Summer 2009

Know Your Rights: New Laws Affect Tenants

The 81st Texas Legislature ended with several advances for tenants' rights. For details about the new laws or other tenant-landlord issues, call the ATC telephone counseling line at **512-474-1961**.

HB 534

No longer will cosigners have open-ended responsibility for a lease. A person other than a tenant who guarantees a lease is liable only for the original lease term, unless the guarantor agrees in writing to be the guarantor on a renewal. Effective: Jan. 1, 2010.

HB 882

Texas finally joins at least 36 other states in prohibiting utility cutoffs. Landlords may not turn off a tenant's electricity for nonpayment of rent (gas and water shutoffs for nonpayment of rent were already prohibited). If a tenant's utilities are unlawfully disconnected, the tenant may go to the justice of the peace for a "writ of restoration" to get the utilities turned back on. Effective: Jan. 1, 2010.

HB 1109

HB 1109 clarifies the existing late fee statute. A landlord may charge a late fee if 1. notice is included in a written lease; 2. the fee is reasonable; and 3. the rent has remained unpaid one full day after the date the rent was originally due (meaning, if the lease states that rent is due on the first, the landlord could not charge a late fee until the third). Effective: Sept. 1, 2009.

HB 1819

The City of Houston must establish a multi-family rental housing inspection program and establish minimum habitability standards. The city is prohibited from ordering the closure of a substandard property unless it makes a good faith effort to locate housing with comparable rental rates in the same school district for residents displaced by the closure. Effective: Sept. 1, 2009.

HB 2824/SB 408

HB 2824 did not pass, but the provision for the appointment of a pro bono lawyer in eviction appeals passed as an amendment to SB 408. To have an attorney appointed, a tenant must have successfully filed a pauper's affidavit with the court. Effective: Sept. 1, 2009.

SB 83

SB 83 allows a tenant to terminate a lease if s/he is a victim of sexual assault or is the parent or guardian of a victim of sexual assault or continuous child sexual abuse that occurs on the premises. SB 83 also expands the ability of a tenant to terminate a lease for domestic violence to those who are victimized by a person who is not a co-tenant or occupant of the dwelling. Effective: Jan. 1, 2010.

SB 1448

Justices of the peace now have the authority to order landlords to repair or remedy conditions affecting a tenant's health and

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FH Case Update

In the settled case reported here, the respondent, unless otherwise noted, denies the allegations of discrimination made by the complainant and the parties have agreed to resolve the case prior to a trial on the merits.

Alma Fellows v. Struhal Properties

Driving through the Travis Heights neighborhood, Alma Fellows noticed a "for rent" sign in front of a house. Interested in the property, she met with the manager. Fellows mentioned that she was disabled and had a therapeutic animal. The manager responded that no pets were allowed and that he would not rent the house to Fellows if she kept her dog.

Fellows contacted ATC fair housing program specialist Lucia Salinas for information about her rights. ATC began its investigation by conducting a fair housing test of the manager. Testing provides an objective means of measuring the quality, quantity, and content of information given to potential renters, home buyers, etc. by a housing provider based on a protected class under the Fair Housing Act.

In this case, fair housing showed evidence of discrimination based on disability. A tester spoke with the manager about renting the house. The tester revealed that she had

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Efficiency Audits Now Mandatory

With the passage of the Energy Conservation Audit and Disclosure ordinance, Austin became one of the few cities in the United States to require energy audits.

Austin multifamily properties with five or more units must undergo an energy audit by June 1, 2011. Newer apartment complexes (those less than 10 years old on June 1, 2009) and properties where the owner has completed comprehensive duct remediation work or replaced air conditioning equipment for all units within the last 10 years are exempt from the requirement.

Multifamily properties with four or fewer units are not required to undergo an energy audit until the property is sold.

During the energy audit, an auditor will pressure test the duct system; identify windows that receive more than one hour of direct sunlight each day; and inspect and measure attic insulation in the top of every building. A copy of the audit report must be posted at the property and provided to current and prospective tenants and buyers.

Apartment complexes that are determined to use 50 percent more electricity than the average will be required to undergo mandatory energy efficiency upgrades such as air duct sealing, attic insulation, and solar screens or window film.

If target participation rates are met, Austin Energy estimates Austinites will save \$430 million over 10 years in lower electric bills, reduce electric demand by 225 megawatts, and reduce annual CO2 emissions by 365,000 metric tons.

For more information, visit Austin Energy at www.austinenergy.com.

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safety (as long as the cost of the repair does not exceed \$10,000). A hearing must occur within six to 10 days of when the landlord is served. Effective: Jan. 1, 2010.

SB 1715

If requested by a tenant, a landlord must install a visual smoke detector that is capable of alerting a person with a hearing impairment of the presence of smoke. Effective: Jan. 1, 2010.

SB 1717

Owners of low-income housing tax credit properties may not lock out or threaten to lock out a tenant for nonpayment of rent. Owners of tax credit properties may not seize a tenant's property except by judicial process unless the tenant has abandoned the premises. The prohibitions on lock-outs and landlord's liens must be included in the lease contract. Most states prohibit these self-help remedies for landlords in all properties. Effective: Sept. 1, 2009.

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been diagnosed with bipolar disorder and had an emotional support animal as part of her therapy. The manager answered, "We don't allow any pets at the property. The only ones that are a must are the eye dogs. ...If one person sees your dog, we will have 13 more people who are going to want pets."

Under the Fair Housing Act, a service animal is not a "pet" but is considered an assistive aid such as a wheelchair required for disability. Accordingly, a landlord should make an exception for service animals to a "no pets" policy.

Salinas helped Fellows file a fair housing complaint against the manager for his refusal to make a reasonable accommo-

SB 2126

SB 2126 was a setback for tenant's rights. Apartment owners may add a 9-percent service charge to submetered water bills unless the tenant lives in a low-income housing tax credit property or receives housing voucher assistance. Effective: Sept. 1, 2009.

Foreclosures

The Texas Legislature did not pass any bills protecting tenants if their landlord enters foreclosure; however, in May, Congress passed the Protecting Tenants at Foreclosure Act. The federal law provides renters whose landlords have lost their properties to foreclosure the right to stay in the home for 90 days after the foreclosure or through the term of their lease unless the property is sold to someone who will occupy the home. The act provides similar protections to housing voucher holders. The renter protection provisions became effective on May 20, 2009, and will expire at the end of 2012.

dation to the property's rules. The City of Austin Equal Employment/Fair Housing Office successfully negotiated a resolution to the complaint. Fellows agreed to withdraw her complaint after the manager was educated on fair housing laws and his obligations regarding reasonable accommodations.

At the Austin Tenants' Council, we strongly believe that all people have the right to pursue the housing of their choice without experiencing unlawful discrimination. You can support this civil right to freedom from housing discrimination by volunteering for ATC as a fair housing tester. For details, contact ATC fair housing testing coordinator Morgan Morrison at 474-7007 x 104 or morgan@housing-rights.org.

Conozca Sus Derechos: Nuevas Leyes Afectan a Inquilinos

La Legislatura 81ª de Texas finalizó con cierto progreso en los derechos de inquilinos. Para detalles sobre las nuevas leyes u otros temas relativos a inquilinos/ propietarios, llame al número telefónico de asesoría de ATC: **512-474-1961**.

HB 534

El garante ya no tendrá responsabilidad ilimitada en contratos de renta. El garante del contrato de renta será solamente responsable por el término original de la renta, a menos que el garante confirme por escrito que garantizará también la renovación del contrato. Efectividad: Enero 1, 2010.

HB 882

Texas se une finalmente a por lo menos otros 36 estados en prohibir los cortes de servicios. Los propietarios no podrán cortar la electricidad del inquilino por falta de pago de renta (los cortes de gas y agua por falta de pago de renta ya estaban prohibidos). Si los servicios de un inquilino fueran desconectados ilegalmente, el inquilino podrá dirigirse al juez de paz por una "orden judicial de restitución" para que se le reconecten los servicios. Efectividad: Enero 1, 2010.

HB 1109

Esta medida aclara el estatuto existente para recargos por mora. El propietario podrá cobrar un recargo por atraso en el pago: 1) si así lo estipula el contrato escrito; 2) si el recargo es razonable; y 3) si la renta sigue impaga un día entero después del día de vencimiento (o sea, si el contrato estipula que la renta se debe pagar el primero, el propietario no podrá cobrar recargo hasta el día tres). Efectividad: Septiembre 1, 2009.

HB 1819

La Ciudad de Houston debe establecer

un programa de inspección de unidades multifamiliares de renta y fijar estándares mínimos de habitabilidad. La ciudad tiene prohibido ordenar el cierre de propiedades que no cumplen estándares, a menos que haga un esfuerzo en buena fe por encontrar viviendas a precios de renta comparables en el mismo distrito escolar para los residentes desplazados por dicho cierre. Efectividad: Septiembre 1, 2009.

HB 2824/SB 408

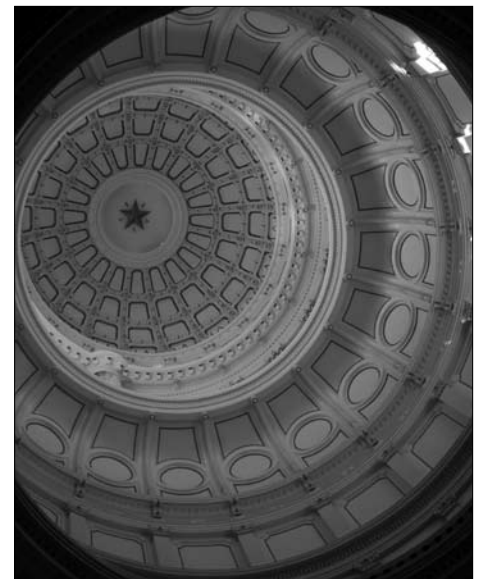
La medida HB 2824 no fue aprobada, pero su provisión para el nombramiento de un abogado gratuito en apelaciones de desalojo fue aprobada como enmienda en la SB 408. Para obtener el servicio de un abogado, el inquilino debe presentar una declaración jurada de pobreza ante la corte. Efectividad: Septiembre 1, 2009.

SB 83

Esta medida permite al inquilino cancelar el contrato de renta si es víctima de violación, o es uno de los padres o guardián de una víctima de violación o abuso sexual continuo de un niño que ocurra en la vivienda. La SB 83 también amplía la capacidad de un inquilino para cancelar el contrato por violencia doméstica, cuando es víctima de personas que no son co-inquilinos u ocupantes de la vivienda. Efectividad: Enero 1, 2010.

SB 1448

Los jueces de paz tienen ahora autoridad para ordenar a propietarios que reparen o solucionen condiciones que afectan la salud y seguridad del inquilino (siempre y cuando la reparación no exceda de \$10,000). La audiencia se debe dar entre los 6 y 10 días de recibir la notificación del propietario. Efectividad: Enero 1, 2010.



www.flickr.com/photos/roland/2330627070

SB 1715

Si lo solicita un inquilino, el propietario debe instalar un detector visual de humo, el que alerta a una persona con problemas auditivos de la presencia de humo en la vivienda. Efectividad: Enero 1, 2010.

SB 1717

Los propietarios con crédito impositivo por viviendas de bajos recursos no pueden impedir la entrada o amenazar con hacerlo a un inquilino por falta de pago de renta. Los propietarios de viviendas con crédito impositivo no pueden confiscar la propiedad del inquilino excepto mediante proceso judicial, a menos que el inquilino haya abandonado la vivienda. La prohibición de bloqueo de entrada y embargo debe incluirse en los contratos de renta. La mayoría de los estados prohíben estos métodos a los propietarios arrendadores. Efectividad: Septiembre 1, 2009.

SB 2126

Esta medida fue un revés en los derechos de inquilinos. Los dueños de apartamentos podrán agregar un cargo por servicio del 9 por ciento en facturas de agua con medidor individual, excepto si el inquilino vive en vivienda con crédito impositivo por bajos recursos o recibe cupones de asistencia en viviendas. Efectividad: Septiembre 1, 2009.

Austin Tenants' Council
1640-B East 2nd Street, Suite 150
Austin, TX 78702

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Fair Housing Program / Programa de Vivienda Justa This program helps any person in the Austin metropolitan area who has been discriminated against in the rental, sale, financing, or appraisal of housing. FHP investigates complaints and coordinates legal services to assist victims of discrimination when their rights under state and federal fair housing laws have been violated. Este programa ayuda a cualquier persona en el area metropolitana de Austin que se ha enfrentado con discriminación en la renta, compra, financiamiento, o evaluación de vivienda. El FHP investiga las quejas y coordina servicios legales para las victimas de discriminación cuando sus derechos están violados bajo las leyes estatales y federales de vivienda justa. Call / llame al 474-7007.

Telephone Counseling / Consejos por Telefono Trained counselors answer tenant-landlord questions and make appropriate referrals. However, ATC offers no legal advice. Consejeros contestan preguntas acerca de inquilinos-propietarios y hacen referencias necesarias. Sin embargo, ATC no ofrece consejos legales. Call / llame al 474-1961.

In-House Counseling / Consejos en la Oficina Counseling information and materials are provided to clients in need of more in-depth assistance. Se provee información y materiales a los clientes que necesitan mayor información. Call for an appointment / llame para una cita al 474-7007.

Crisis Intervention / Intervencion Crisis Counselors mediate on behalf of tenants to resolve emergencies that threaten their housing. Consejeros median en nombre del inquilino a resolver una emergencia que amenass su vivienda. Call / llame al 474-1961.

Rental Repair Assistance / Ayuda con Reparaciones en su Vivenda The Renters' Rights Assistance Program helps low-income renters enforce their rights for repairs through advocacy and mediation. El Programa de Asistencia con los Derechos de Inquilinos ayuda a los inquilinos de bajo ingreso da fuerza a sus derechos para reparaciones por medio de negociación y mediación. Call / llame al 474-7007.

Lease Forms / Contratos ATC sells lease packets and brochures describing landlord and tenant rights and responsibilities to landlords for a small fee. ATC vende paquetes de contratos y folletos, por una cuota nominal, describiendo los derechos y las responsabilidades del propietario y del inquilino. Call for more information / llame para mayor información al 474-7007.

Austin Tenants' Council Staff

Linda AlemanHousing Specialist
Christine Castilleja Intake Specialist
Cruz GarciaHousing Specialist
Robert Hood Fair Housing Program Specialist
Rebecca MojicaHousing Specialist
Morgan MorrisonFair Housing Testing Coordinator
Lucia Perez-Salinas..... Fair Housing Program Specialist
Sam PersleyProgram Specialist III
Nekesha PhoenixFair Housing Program Director
Elizabeth ReekersHousing Specialist
Bruce Rodenborn Technical Support
Katherine Stark Executive Director