

SUBCHAPTER F. SMOKE ALARMS AND FIRE EXTINGUISHERS

Sec. 92.251. DEFINITIONS. In this subchapter:

(1) "Bedroom" means a room designed with the intent that it be used for sleeping purposes.

(2) "Dwelling unit" means a home, mobile home, duplex unit, apartment unit, condominium unit, or any dwelling unit in a multiunit residential structure. It also means a "dwelling" as defined by Section 92.001.

(3) "Smoke alarm" means a device designed to detect and to alert occupants of a dwelling unit to the visible and invisible products of combustion by means of an audible alarm.

Acts 1983, 68th Leg., p. 3649, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 3, eff. September 1, 2011.

Sec. 92.252. APPLICATION OF OTHER LAW; MUNICIPAL REGULATION. (a) The duties of a landlord and the remedies of a tenant under this subchapter are in lieu of common law, other statutory law, and local ordinances regarding a residential landlord's duty to install, inspect, or repair a fire extinguisher or smoke alarm in a dwelling unit. However, this subchapter does not:

(1) affect a local ordinance adopted before September 1, 1981, that requires landlords to install smoke alarms in new or remodeled dwelling units before September 1, 1981, if the ordinance conforms with or is amended to conform with this subchapter;

(2) limit or prevent adoption or enforcement of a local ordinance relating to fire safety as a part of a building, fire, or housing code, including any requirements relating to the installation of smoke alarms or the type of smoke alarms;

(3) otherwise limit or prevent the adoption of a local ordinance that conforms to this subchapter but which contains additional enforcement provisions, except as provided by Subsection (b); or

(4) affect a local ordinance that requires regular inspections by local officials of smoke alarms in dwelling units and that requires smoke alarms to be operational at the time of inspection.

(b) If a smoke alarm powered by battery has been installed in a dwelling unit built before September 1, 1987, in compliance with this subchapter and local ordinances, a local ordinance may not require that a smoke alarm powered by alternating current be installed in the unit unless:

(1) the interior of the unit is repaired, remodeled, or rebuilt at a projected cost of more than \$5,000 and:

(A) the repair, remodeling, or rebuilding requires a municipal building permit; and

(B) either:

(i) the repair, remodeling, or rebuilding results in the removal of interior walls or ceiling finishes exposing the structure; or

(ii) the interior of the unit provides access for building wiring through an attic, crawl space, or basement without the removal of interior walls or ceiling finishes;

(2) an addition occurs to the unit at a projected cost of more than \$5,000;

(3) a smoke alarm powered by alternating current was actually installed in the unit at any time prior to September 1, 1987; or

(4) a smoke alarm powered by alternating current was required by lawful city ordinance at the time of initial construction of the unit.

Acts 1983, 68th Leg., p. 3649, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1987, 70th Leg., ch. 475, Sec. 1, eff.

Sept. 1, 1987; Acts 1997, 75th Leg., ch. 1205, Sec. 13, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 3, eff. September 1, 2011.

Sec. 92.253. EXEMPTIONS. (a) This subchapter does not apply to:

(1) a dwelling unit that is occupied by its owner, no part of which is leased to a tenant;

(2) a dwelling unit in a building five or more stories in height in which smoke alarms are required or regulated by local ordinance; or

(3) a nursing or convalescent home licensed by the Department of State Health Services and certified to meet the Life Safety Code under federal law and regulations.

(b) Notwithstanding this subchapter, a person licensed to install fire alarms or fire detection devices under Chapter 6002, Insurance Code, shall comply with that chapter when installing smoke alarms.

Acts 1983, 68th Leg., p. 3649, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 3, eff. September 1, 2011.

Sec. 92.254. SMOKE ALARM. (a) A smoke alarm must be:

(1) designed to detect both the visible and invisible products of combustion;

(2) designed with an alarm audible to a person in the bedrooms it serves; and

(3) tested and listed for use as a smoke alarm by Underwriters Laboratories, Inc., Factory Mutual Research Corporation, or United States Testing Company, Inc.

(a-1) If requested by a tenant as an accommodation for a person with a hearing-impairment disability or as required by law as a reasonable accommodation for a person with a hearing-impairment disability, a smoke alarm must, in addition to complying with Subsection (a), be capable of alerting a hearing-impaired person in the bedrooms it serves.

(b) Except as provided by Section 92.255(b), a smoke alarm may be powered by battery, alternating current, or other power source as required by local ordinance. The power system and installation procedure of a security device that is electrically operated rather than battery operated must comply with applicable local ordinances.

Acts 1983, 68th Leg., p. 3650, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1987, 70th Leg., ch. 475, Sec. 2, eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [824](#), Sec. 2, eff. January 1, 2010.

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 3, eff. September 1, 2011.

Sec. 92.255. INSTALLATION AND LOCATION. (a) A landlord shall install at least one smoke alarm in each separate bedroom in a dwelling unit. In addition:

(1) if the dwelling unit is designed to use a single room for dining, living, and sleeping, the smoke alarm must be located inside the room;

(2) if multiple bedrooms are served by the same corridor, at least one smoke alarm must be installed in the corridor in the immediate vicinity of the bedrooms; and

(3) if the dwelling unit has multiple levels, at least one smoke alarm must be located on each level.

(b) If a dwelling unit was occupied as a residence before September 1, 2011, or a certificate of occupancy was issued for the dwelling unit before that date, a smoke alarm installed in

accordance with Subsection (a) may be powered by battery and is not required to be interconnected with other smoke alarms, except that a smoke alarm that is installed to replace a smoke alarm that was in place on the date the dwelling unit was first occupied as a residence must comply with residential building code standards that applied to the dwelling unit on that date or Section 92.252(b).

Acts 1983, 68th Leg., p. 3650, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 3, eff. September 1, 2011.

Sec. 92.257. INSTALLATION PROCEDURE. (a) Subject to Subsections (b) and (c), a smoke alarm must be installed according to the manufacturer's recommended procedures.

(b) A smoke alarm must be installed on a ceiling or wall. If on a ceiling, it must be no closer than six inches to a wall or otherwise located in accordance with the manufacturer's installation instructions. If on a wall, it must be no closer than six inches and no farther than 12 inches from the ceiling or otherwise located in accordance with the manufacturer's installation instructions.

(c) A smoke alarm may be located other than as required by Subsection (a) or (b) if a local ordinance or a local or state fire marshal approves.

Acts 1983, 68th Leg., p. 3651, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 3, eff. September 1, 2011.

Sec. 92.2571. ALTERNATIVE COMPLIANCE. A landlord complies with the requirements of this subchapter relating to the provision of smoke alarms in the dwelling unit if the landlord:

(1) has a fire detection device, as defined by Section 6002.002, Insurance Code, that includes a fire alarm device, as defined by Section 6002.002, Insurance Code, installed in a dwelling unit; or

(2) for a dwelling unit that is a one-family or two-family dwelling unit, installs smoke detectors in compliance with Chapter 766, Health and Safety Code.

Added by Acts 2007, 80th Leg., R.S., Ch. [1051](#), Sec. 12, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 3, eff. September 1, 2011.

Sec. 92.258. INSPECTION AND REPAIR. (a) The landlord shall inspect and repair a smoke alarm according to this section.

(b) The landlord shall determine that the smoke alarm is in good working order at the beginning of the tenant's possession by testing the smoke alarm with smoke, by operating the testing button on the smoke alarm, or by following other recommended test procedures of the manufacturer for the particular model.

(c) During the term of a lease or during a renewal or extension, the landlord has a duty to inspect and repair a smoke alarm, but only if the tenant gives the landlord notice of a malfunction or requests to the landlord that the smoke alarm be inspected or repaired. This duty does not exist with respect to damage or a malfunction caused by the tenant, the tenant's family, or the tenant's guests or invitees during the term of the lease or a renewal or extension, except that the landlord has a duty to repair or replace the smoke alarm if the tenant

pays in advance the reasonable repair or replacement cost, including labor, materials, taxes, and overhead.

(d) The landlord must comply with the tenant's request for inspection or repair of a smoke alarm within a reasonable time, considering the availability of material, labor, and utilities.

(e) The landlord has met the duty to inspect and repair if the smoke alarm is in good working order after the landlord tests the smoke alarm with smoke, operates the testing button on the smoke alarm, or follows other recommended test procedures of the manufacturer for the particular model.

(f) The landlord is not obligated to provide batteries for a battery-operated smoke alarm after a tenant takes possession if the smoke alarm was in good working order at the time the tenant took possession.

(g) A smoke alarm that is in good working order at the beginning of a tenant's possession is presumed to be in good working order until the tenant requests repair of the smoke alarm as provided by this subchapter.

Acts 1983, 68th Leg., p. 3651, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1993, 73rd Leg., ch. 48, Sec. 19, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 869, Sec. 7, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 918, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 3, eff. September 1, 2011.

Sec. 92.259. LANDLORD'S FAILURE TO INSTALL, INSPECT, OR REPAIR. (a) A landlord is liable according to this subchapter if:

(1) the landlord did not install a smoke alarm at the time of initial occupancy by the tenant as required by this subchapter or a municipal ordinance permitted by this subchapter; or

(2) the landlord does not install, inspect, or repair the smoke alarm on or before the seventh day after the date the tenant gives the landlord written notice that the tenant may exercise his remedies under this subchapter if the landlord does not comply with the request within seven days.

(b) If the tenant gives notice under Subsection (a)(2) and the tenant's lease is in writing, the lease may require the tenant to make the initial request for installation, inspection, or repair of a smoke alarm in writing.

Acts 1983, 68th Leg., p. 3652, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1995, 74th Leg., ch. 869, Sec. 8, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 918, Sec. 2, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 3, eff. September 1, 2011.

Sec. 92.260. TENANT REMEDIES. A tenant of a landlord who is liable under Section 92.259 may obtain or exercise one or more of the following remedies:

(1) a court order directing the landlord to comply with the tenant's request if the tenant is in possession of the dwelling unit;

(2) a judgment against the landlord for damages suffered by the tenant because of the landlord's violation;

(3) a judgment against the landlord for a civil penalty of one month's rent plus \$100 if the landlord violates Section 92.259(a)(2);

(4) a judgment against the landlord for court costs;

(5) a judgment against the landlord for attorney's fees in an action under Subdivision (1) or (3); and

(6) unilateral termination of the lease without a court proceeding if the landlord violates Section 92.259(a)(2).

Acts 1983, 68th Leg., p. 3653, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1995, 74th Leg., ch. 869, Sec. 9, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 918, Sec. 3, eff. Sept. 1, 1995.

Sec. 92.261. LANDLORD'S DEFENSES. The landlord has a defense to liability under Section 92.259 if:

(1) on the date the tenant gives the notice required by Section 92.259 the tenant has not paid all rent due from the tenant; or

(2) on the date the tenant terminates the lease or files suit the tenant has not fully paid costs requested by the landlord and authorized by Section 92.258.

Acts 1983, 68th Leg., p. 3653, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 92.2611. TENANT'S DISABLING OF A SMOKE ALARM. (a) A tenant is liable according to this subchapter if the tenant removes a battery from a smoke alarm without immediately replacing it with a working battery or knowingly disconnects or intentionally damages a smoke alarm, causing it to malfunction.

(b) Except as provided in Subsection (c), a landlord of a tenant who is liable under Subsection (a) may obtain a judgment against the tenant for damages suffered by the landlord because the tenant removed a battery from a smoke alarm without immediately replacing it with a working battery or knowingly disconnected or intentionally damaged the smoke alarm, causing it to malfunction.

(c) A tenant is not liable for damages suffered by the landlord if the damage is caused by the landlord's failure to repair the smoke alarm within a reasonable time after the tenant requests it to be repaired, considering the availability of material, labor, and utilities.

(d) A landlord of a tenant who is liable under Subsection (a) may obtain or exercise one or more of the remedies in Subsection (e) if:

(1) a lease between the landlord and tenant contains a notice, in underlined or boldfaced print, which states in substance that the tenant must not disconnect or intentionally damage a smoke alarm or remove the battery without immediately replacing it with a working battery and that the tenant may be subject to damages, civil penalties, and attorney's fees under Section 92.2611 of the Property Code for not complying with the notice; and

(2) the landlord has given notice to the tenant that the landlord intends to exercise the landlord's remedies under this subchapter if the tenant does not reconnect, repair, or replace the smoke alarm or replace the removed battery within seven days after being notified by the landlord to do so.

(d-1) The notice in Subsection (d)(2) must be in a separate document furnished to the tenant after the landlord has discovered that the tenant has disconnected or damaged the smoke alarm or removed a battery from it.

(e) If a tenant is liable under Subsection (a) and the tenant does not comply with the landlord's notice under Subsection (d), the landlord shall have the following remedies against the tenant:

(1) a court order directing the tenant to comply with the landlord's notice;

(2) a judgment against the tenant for a civil penalty of one month's rent plus \$100;

(3) a judgment against the tenant for court costs; and

(4) a judgment against the tenant for reasonable attorney's fees.

(f) A tenant's guest or invitee who suffers damage because of a landlord's failure to install, inspect, or repair a smoke alarm as required by this subchapter may recover a judgment against the landlord for the damage. A tenant's guest or

invitee who suffers damage because the tenant removed a battery without immediately replacing it with a working battery or because the tenant knowingly disconnected or intentionally damaged the smoke alarm, causing it to malfunction, may recover a judgment against the tenant for the damage.

Added by Acts 1995, 74th Leg., ch. 869, Sec. 10, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 918, Sec. 4, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 28.01, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 5, eff. September 1, 2011.

Sec. 92.262. AGENTS FOR DELIVERY OF NOTICE. A managing or leasing agent, whether residing or maintaining an office on-site or off-site, is the agent of the landlord for purposes of notice and other communications required or permitted by this subchapter.

Acts 1983, 68th Leg., p. 3653, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 92.263. INSPECTION OF RESIDENTIAL FIRE EXTINGUISHER.

(a) If a landlord has installed a 1A10BC residential fire extinguisher as defined by the National Fire Protection Association or other non-rechargeable fire extinguisher in accordance with a local ordinance or other law, the landlord or the landlord's agent shall inspect the fire extinguisher:

- (1) at the beginning of a tenant's possession; and
- (2) within a reasonable time after receiving a written request by a tenant.

(b) At a minimum, an inspection under this section must include:

(1) checking to ensure the fire extinguisher is present; and

(2) checking to ensure the fire extinguisher gauge or pressure indicator indicates the correct pressure as recommended by the manufacturer of the fire extinguisher.

(c) A fire extinguisher that satisfies the inspection requirements of Subsection (b) at the beginning of a tenant's possession is presumed to be in good working order until the tenant requests an inspection in writing.

Added by Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 6, eff. September 1, 2011.

Sec. 92.264. DUTY TO REPAIR OR REPLACE. (a) The landlord shall repair or replace a fire extinguisher at the landlord's expense if:

(1) on inspection, the fire extinguisher is found:  
(A) not to be functioning; or  
(B) not to have the correct pressure indicated on the gauge or pressure indicator as recommended by the manufacturer of the fire extinguisher; or

(2) a tenant has notified the landlord that the tenant has used the fire extinguisher for a legitimate purpose.

(b) If the tenant or the tenant's invited guest removes, misuses, damages, or otherwise disables a fire extinguisher:

(1) the landlord is not required to repair or replace the fire extinguisher at the landlord's expense; and

(2) the landlord is required to repair or replace the fire extinguisher within a reasonable time if the tenant pays in advance the reasonable repair or replacement cost, including labor, materials, taxes, and overhead.

Added by Acts 2011, 82nd Leg., R.S., Ch. [257](#), Sec. 6, eff. September 1, 2011.