



## INFORMATION FOR CLIENTS OF TEXAS ATTORNEYS

*The information included on this page is for educational and informational purposes only. Please consult an attorney regarding specific legal questions.*

# Tenants' Rights in Texas: Renting and Repairs

Texas law requires landlords to make a diligent effort to repair problems about which they have been notified and that materially affect the physical health or safety of an ordinary tenant. Examples of things that materially affect the health and safety of an ordinary tenant are sewage backups, roaches, rats, no hot water, faulty wiring, roof leaks, and, sometimes, a lack of heat or air conditioning. Be sure to read your lease to find out. If you are uncertain how to classify the problem, consult a lawyer, health or building inspector, or tenant association.

### Exceptions to the Landlord's Duty to Repair

Texas law does not require a landlord to repair a condition caused by the tenant or a guest, family member, or lawful occupant of the tenant (unless the condition was caused by normal use of the premises). A landlord must provide you with a home that is free from health and safety risks, regardless of what is in the lease. Other than a few exceptions, a landlord may not modify his or her duties under the law to repair a condition that materially affects your physical health and safety. If a landlord intentionally tries to change this duty orally or in your lease, you may have a claim against him or her for actual damages. The law presumes the landlord acted without knowledge, so give your landlord a written notice (and keep a copy) if he or she is violating the law and ask him or her to change the lease.



### Procedure for Obtaining Repairs

Tenants with problems requiring landlord repairs should take the following steps in order to use the remedies provided by state law (your lease may provide you with more rights).

#### 1. Always Give Notice

Many leases require that all requests for repair be in writing. If you send your first notice requesting repairs by certified mail, return receipt requested, then you are not required to send a second written notice in order to pursue your rights and remedies under state law.

#### 2. Pay Your Rent

The landlord is not obligated to make repairs required by state law unless you are current on your rent. Your rent must be current at the time you give the first notice; otherwise, that notice may not have any legal effect.

#### 3. Give Your Landlord a Reasonable Time to Make the Repairs

Your landlord has a "reasonable time" to fix the problem after receiving your initial notice. The length of time considered reasonable will depend on the circumstances, although the law presumes



that seven days is a reasonable time. The nature of the problem and the reasonable availability of material, labor, and utilities are all factors that will be taken into consideration in determining how much time is reasonable.

#### 4. It Is Not Required, but It May Be Wise to Call a City Inspector

If the landlord has had a reasonable time to fix the problem and has not done so, you may decide to call the appropriate city or county inspector (housing, health, or fire). This may put additional pressure on the landlord if the condition violates local ordinances. Be sure to get a written report and the name of your inspector.

#### 5. Give a Second Notice and Request Explanation

After the landlord has had reasonable time to fix the condition following your initial notice, you must send a second written notice to repair or remedy the condition (unless you sent the first notice by certified mail). You should ask the landlord in this second notice for an explanation for any delay, because if he or she does not respond, you will have an easier case to prove if it ever goes to court. It is a good idea to send this notice by certified mail to prove the landlord received it. Remember to save a copy of your notice. The notice should say that it is your second written notice, that you are requesting an explanation, and it *must* explain what you plan to do if the landlord does not repair the condition. You have three basic alternatives: (1) terminate the lease; (2) repair and deduct the amount from your rent; or (3) file a lawsuit seeking an order directing repairs, damages, etc. It may be a good idea to list all the alternatives in your second notice and decide later which ones you will use.

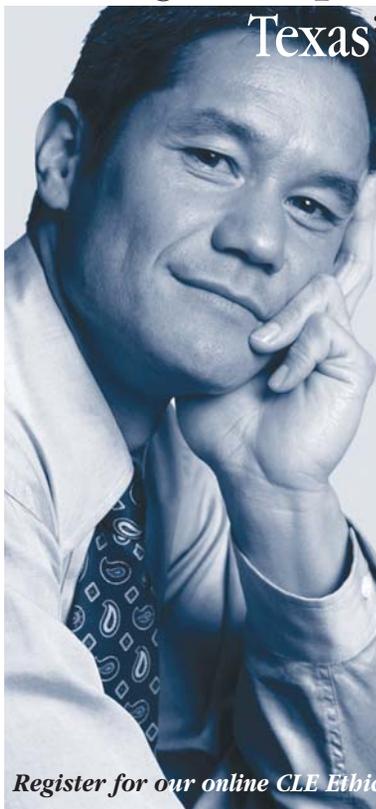
#### 6. Tenant Remedies

If the landlord has clearly had a reasonable amount of time to repair the condition and has failed to make a diligent effort to remedy the problem and you have properly followed the procedures above, you may be able to exercise one or more of the alternatives

listed in your notice: (1) terminate the lease and move out; (2) have the problem fixed yourself and deduct the amount spent from your rent, but only if you follow certain procedures; and/or (3) sue the landlord for failing to repair. ❖

This article is excerpted from the *Tenants' Rights Handbook*, which was prepared as a public service by the Texas Young Lawyers Association and the State Bar of Texas. For more information, visit [www.texaslawhelp.org](http://www.texaslawhelp.org). For a copy of the full, 44-page handbook, write to the Public Information Department, State Bar of Texas, P.O. Box 12487, Austin 78711-2487, call (800)204-2222, Ext. 1800, or visit [www.texasbar.com](http://www.texasbar.com).

## The *Right* Malpractice Coverage for Texas' Solo Practitioners.



TLIE offers the *right* malpractice coverage for every Texas law firm... even Solo Practitioners. Protection based on *your* exposure, *your* claims experience, *your* area of specialization, and the limits that *you* need.

Coverage with the flexibility to protect *you* now and as *your* practice grows, with limits available to insure even the largest firms, at a cost commensurate with *your* risk.

If you would like to know more about the benefits of joining TLIE, please contact Jean Sholes at one of the numbers below.



P O Box 13325, Austin TX 78711  
**Phone:** 512 480 9074  
**Toll-free:** 1 800 252 9332  
**FAX:** 512 482-8738  
**e-mail:** [info@tlie.org](mailto:info@tlie.org)

Register for our online CLE Ethics Program at [www.tlie.org/seminars](http://www.tlie.org/seminars)