

Leasing Insights: Prohibition upon Assignment and Subletting

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Texas Property Code §91.005 prohibits a tenant from subletting the premises without the landlord's consent. "During the term of a lease, the tenant may not rent the leasehold to any other person without the prior consent of the landlord." Texas courts have applied the statutory prohibition against subletting without the landlord's consent to assignments as well. Therefore, a tenant needs to be aware that if the lease does not address assignment or subletting, it will be prohibited under Texas law.

An unpermitted assignment or sublease without the landlord's consent is not automatically void, but rather it is voidable at the landlord's option. However, once the landlord accepts rent after the assignment or sublease, the landlord is deemed to have waived the default.

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