

BILL ANALYSIS

C.S.H.B. 211
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law provides certain conditions for terminating a lease on a dwelling, including a federal right for active duty service members who are leaseholders to vacate a lease and avoid liability under certain circumstances.

House Bill No. 211 clarifies the rights of active duty military personnel as well as reservists who are mobilized for active duty. The bill also provides that the victims of family violence with certain court orders may also terminate a lease prior to the expiration of the lease. Current law provides no provision for the right to vacate and avoid liability following domestic violence. House Bill No. 211 adds the right to vacate and avoid liability following family violence, as defined by Section 71.004, Family Code. The purpose of the Act is to allow victims of family violence to escape from further danger without additional financial loss, and to clarify the rights of affected military families.

RULEMAKING AUTHORITY

It is the opinion of the Committee on Business and Industry that this bill confers no additional rulemaking authority to any state officer, board, institution, department or agency.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Chapter 92, Property Code is amended by adding 92.016 as follows:

Subsection (a) Statement that "family violence" is defined by Section 71.004 of the Family Code and that "occupant" means a person who has the landlord's consent to occupy a dwelling but who has no obligation to pay rent for the dwelling.

Subsection (b) states that a residential lease must allow for victims of family violence who are tenants to be released from a lease without penalty and that the victim's landlord must be provided with supporting documents and the date of their move.

Subsection (c) states that a victim of family violence may exercise the right to vacate without liability for the remainder of the lease and sets conditions.

Subsection (d) states that the tenant remains responsible for any delinquent, past due monies owed at the time the lease is terminated.

Subsection (e) states that a landlord who violates Section 92.016 is liable to the vacating tenant for actual damages, a civil penalty equal to a month's rent plus \$500, and attorney's fees.

Subsection (f) states that a tenant who terminates a lease under Subsection (b) is released from all liability for any delinquent, unpaid rent owed to the landlord by the tenant on the effective date of the lease termination if the lease does not contain a specific declaration of the tenant's special statutory rights to terminate the lease early due to family violence or military deployment.

Subsection (g) states that a tenant has a right to terminate a lease before term and vacate without liability under these limited circumstances.

Section 92.017 tracks federal law to the proposed state statute to allow military families to terminate a lease in certain circumstances.

Subsection (a) defines terms relating the military service and dependents.

Subsection (b) allows termination of an apartment lease if the individual enters military service, receives orders for a permanent change of station or is deployed for 90 days or more.

Subsection (c) requires written notice of termination of the lease and a copy of government document verifying the service member's orders.

Subsection (d) sets dates and a timeline for termination of the lease obligation.

Subsection (e) sets the deadline for refund any rent or deposit amounts paid in advance.

Subsection (f) clarifies that a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the lease was terminated by the tenant is not affected.

Subsection (g) states that a tenant who terminates a lease under Subsection (b) is released from all liability for any delinquent, unpaid rent owed to the landlord by the tenant on the effective date of the lease termination if the lease does not contain a specific declaration of the tenant's special statutory rights to terminate the lease early due to family violence or military deployment.

(h) states that a landlord who violates this section is liable to the tenant for actual damages, a civil penalty equal to a month's rent, plus \$500, and attorney's fees.

(i) clarifies that a tenant's right to terminate a lease before term, vacate the dwelling, and avoid liability may not be waived, except as provided by Subsection (j).

(j) clarifies that a tenant and a landlord may agree that the tenant waives these rights if the tenant or any dependent living with the tenant moves into base housing or other housing within 30 miles of the dwelling. Such waiver must be signed and in writing in a document separate from the lease and must comply with federal law. Such waiver does not apply if the tenant, or tenant's dependent, moves into housing owned or occupied by family or relatives of the tenant or the tenant's dependent nor does such waiver apply if the tenant, and the tenant's dependent, move, wholly or partly because of a significant financial loss of income caused by the tenant's military service.

(k) defines "significant financial loss of income" as a reduction of 10 percent or more of the tenant's household income caused by the tenant's military service; this subsection entitles the landlord to verify the income loss.

SECTION 2 amends Section 92.006 of the property code to add Subsection (g) to establish that the tenant's right to vacate a lease under this Act may not be waived by a tenant or a landlord.

SECTION 3 establishes that the changes only affect leases entered into or renewed after the effective date of the act.

SECTION 4 sets the Act's effective date.

EFFECTIVE DATE

Except as provided by Subsections (b) and (c), House Bill No. 211 takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this bill does not receive the super-majority vote necessary for immediate effect, then it takes effect instead on the default date of September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute expands the bill's application to cover tenants who are deployed by the military. The original bill was limited only to victims of family violence.