

BILL ANALYSIS

C.S.H.B. 3101
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Apartment tenants are often vulnerable to unfair practices of some landlords who abuse their landlord-tenant relationship for monetary gain. These practices include requiring tenants to furnish additional documentation on their vehicles or face penalties, charging excessive late fees, and collecting nonrefundable application deposits from tenants who the landlords know do not meet their selection criteria. Some landlords try to circumvent eviction procedures by failing to make needed repairs and by locking tenants out illegally. Often, tenants do not know their existing rights or how to enforce them.

C.S.H.B. 3101 is a comprehensive landlord-tenant reform bill that is intended to ensure fair business dealings between landlord and tenants while prohibiting illegitimate and illegal practices that take advantage of vulnerable tenants. Certain key provisions include clarifying the terms of when a landlord can charge certain amounts such as late fees, and providing specific disclosures and notices to tenants regarding their rights to prevent lockout and to get repairs.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3101 amends the Property Code to prohibit a landlord from intentionally preventing a tenant from entering their leased premises due to the delinquency in the payment of rent unless the landlord's right to change the locks is placed in the lease. The bill requires the lease to include in underlined or bold print, the tenant's right to receive a key to the new lock at any hour, regardless of whether the tenant pays the delinquent rent.

C.S.H.B. 3101 increases the civil penalty for a landlord who intentionally prevents a tenant from entering their leased premises due to the delinquency in the payment of rent from \$500 to \$1000.

C.S.H.B. 3101 prohibits a landlord from changing the locks on the doors of a tenant's dwelling due to the delinquency in the payment of rent when the occupant is in the dwelling, or more than once during a rental payment period.

C.S.H.B. 3101 provides that as a precondition for allowing a tenant to park in a specific parking space a landlord is authorized to require a tenant to provide the make, model, color, year, state of registration, and license number of the vehicle in order to obtain a parking space.

C.S.H.B. 3101 prohibits a landlord from charging a tenant a late fee for failing to pay rent unless the notice of the fee is included in a written lease, the fee is a reasonable estimate of uncertain damages to the landlord that are incapable of precise calculation and result from the late payment of rent, and the rent remains unpaid after the second day after the date the rent was originally due. The bill provides that a tenant who was improperly charged late fees would be entitled to recover \$100, three times the amount of the improper late fee and reasonable attorney's fees.

C.S.H.B. 3101 requires a lease to contain, in underlined or bold print, language that informs the tenant of the landlord's obligation to repair or provide a remedy for certain conditions in a tenant's dwelling.

C.S.H.B. 3101 80(R)

C.S.H.B. 3101 requires the landlord to provide to an applicant for a rental application printed notice of the landlord's tenant selection criteria and the grounds for which the rental application may be denied. The criteria include the applicant's criminal history, previous rental history, current income, credit history or failure to provide accurate or complete information on the application form. The bill requires the tenant to sign an acknowledgment indicating that the notice was provided. The bill authorizes the acknowledgement to be part of the rental application if the notice is underlined or in bold print. The bill requires a landlord to return the application fee and any application deposit, if the landlord rejects the applicant and has not been provided a notice of criteria for denying a rental application. The bill requires the landlord to mail the refunded application fee if the tenant requests the landlord to do so. The bill provides that a landlord who fails to refund an application fee is liable for an amount equal to \$100, three times the amount wrongfully retained, and the applicant's reasonable attorney's fees. The bill provides that a provision of the rental application that purports to waive a right or exempt a party from a liability or duty under Subchapter I (Rental Application Deposits), Property Code, is void.

C.S.H.B. 3101 provides that this Act applies prospectively to a lease agreement or a renewal of a lease agreement entered into, or a rental application received by an applicant, on or after the effective date of this Act.

EFFECTIVE DATE

January 1, 2008

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute changes the permissible calculation of a late fee from a cap of seven percent of the unpaid rent to a reasonable estimation of the uncertain damages of collecting delinquent rent. The substitute provides a specific remedy and penalty for a landlord's violation of the late fee provision, without altering the landlord's right to lawfully terminate a lease.

The substitute eliminates provisions that would permit a tenant to terminate the lease within 30 days of the time that they were the victim of a burglary or other violent crime.

The substitute adds provisions restricting a landlord's ability to lockout a tenant, and adds provisions providing for the refund of an application fee or deposit under certain criteria.

The substitute requires notice be given to tenants of eligibility requirements for renting an apartment. The substitute provides that a provision of the rental application that purports to waive a right or exempt a party from a liability or duty under Subchapter I (Rental Application Deposits), Property Code, is void.

The substitute changes the effective date from September 1, 2007 to January 1, 2008.