BILL ANALYSIS

BACKGROUND AND PURPOSE

Interested parties note that some applicants seeking to lease an apartment are required to pay an application deposit to take a specific unit off the market during the application approval process. However, some landlords reportedly have deemed the deposit fee nonrefundable even when the applicant is denied tenancy. Thus, an applicant could easily lose hundreds of dollars in application deposit fees during a typical search for an apartment. C.S.H.B. 1009 seeks to address this issue and clarify the law relating to rental application deposits and fees.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 1009 amends the Property Code to remove the definition of "application deposit" from statutory provisions regarding a rental application for a residential rental property and to instead define "deposit" as a sum of money that is given to the landlord in connection with a rental application as a holding or application deposit to take a unit off the market while the rental application is being processed. The bill specifies that the term does not include an application fee and replaces references to an application deposit in the applicable statutory provisions with references to a deposit. The bill entitles a rental applicant to the refund of a deposit if the applicant is rejected as a tenant or withdraws the application before the application has been processed but authorizes a landlord to retain the deposit if the applicant gives false information on the rental application.

C.S.H.B. 1009 revises the statutory requirement for the landlord to return the application fee and any deposit if the landlord rejects an applicant and the landlord has not made the notice of rental eligibility requirements available by specifying that the return be made not later than the fifth day after the date the landlord rejects the applicant. The bill requires the landlord, if the landlord rejects an applicant, to return any deposit not later than the fifth day after the date the application is rejected. The bill requires a landlord, if an applicant requests the landlord to mail a refund of the applicant's deposit or application fee, as applicable, to mail the refund check to the applicant at the address furnished by the applicant not later than the fifth day after the date the landlord rejected the applicant.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1009 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Sections 92.351(1) and (1-a), Property Code, are amended to read as follows:	SECTION 1. Section 92.351, Property Code, is amended by amending Subdivisions (1) and (1-a) and adding Subdivision (3-a) to read as follows: (1) ["Application deposit" means a sum of money that is given to the landlord in connection with a rental application and that is refundable to the applicant if the applicant is rejected as a tenant.]
(1) "Application deposit" means a sum of money that is given to the landlord in connection with a rental application as a holding deposit to take a unit off the market while the rental application is processed and that is refundable to the applicant if the applicant is rejected as a tenant.	(3-a) "Deposit" means a sum of money that is given to the landlord in connection with a rental application as a holding or application deposit to take a unit off the market while the rental application is processed. The term does not include an application fee.
(1-a) "Application fee" means a [nonrefundable] sum of money that is given to the landlord to offset the costs of screening an applicant for acceptance as a tenant.	[(1-a)] "Application fee" means a [nonrefundable] sum of money that is given to the landlord to offset the costs of screening an applicant for acceptance as a tenant.
No equivalent provision.	SECTION 2. Subchapter I, Chapter 92, Property Code, is amended by adding Section 92.3513 to read as follows: Sec. 92.3513. DEPOSIT. (a) An applicant is entitled to the refund of a deposit if the applicant: (1) is rejected as a tenant; or (2) withdraws the application before the application has been processed. (b) A landlord may retain the deposit if the applicant gives false information on the rental application.
SECTION 2. Section 92.3515(f), Property Code, is amended to read as follows:	SECTION 3. Sections 92.3515(e) and (f), Property Code, are amended to read as follows: (e) Except as provided by Subsection (f), if [If] the landlord rejects an applicant and the

84R 28400

Substitute Document Number: 84R 23902

15.127.751

2

landlord has not made the notice required by Subsection (a) available, the landlord shall return the application fee and any [application] deposit not later than the fifth day after the date the landlord rejects the applicant.

(f) If an applicant requests a landlord to mail a refund of the applicant's application deposit or application fee to the applicant, the landlord shall mail the refund check to the applicant at the address furnished by the applicant.

(f) If an applicant requests a landlord to mail a refund of the applicant's deposit or application fee to the applicant, the landlord shall mail the refund check to the applicant at the address furnished by the applicant not later than the fifth day after the date the landlord rejected the applicant.

No equivalent provision.

SECTION 4. Section 92.352(a), Property Code, is amended to read as follows:
(a) The applicant is deemed rejected by the landlord if the landlord does not give notice of acceptance of the applicant on or before the seventh day after the:
(1) date the applicant submits a completed rental application to the landlord on an application form furnished by the landlord; or
(2) date the landlord accepts a [an application] deposit if the landlord does not furnish the applicant an application form.

No equivalent provision.

SECTION 5. Section 92.353, Property Code, is amended by adding Subsection (a-1) and amending Subsections (b) and (c) to read as follows:
(a-1) Except as provided by Subsection (b), if the landlord rejects an applicant, the landlord shall return any deposit not later than the fifth day after the date the application is rejected.
(b) If a rental applicant requests that any acceptance of the applicant or any refund of the applicant's [application] deposit be mailed to the applicant, the landlord must mail the refund check to the applicant at the address furnished by the applicant not later than the fifth day after the date the landlord rejected the applicant.
(c) If the date of required notice of acceptance or required refund of a [an application] deposit or application fee is a Saturday, Sunday, or state or federal holiday, the required date shall be extended to the end of the next day following the Saturday, Sunday, or holiday.

SECTION 3. The changes in law made by this Act apply only to a rental application submitted on or after the effective date of this Act. A rental application submitted before the effective date of this Act is governed by the law in effect on the date the rental application was submitted, and the former law is continued in effect for that purpose.

SECTION 6. Same as introduced version.

SECTION 4. This Act takes effect September 1, 2015.

SECTION 7. Same as introduced version.

15.127.751