

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 498  
By: Huffman; Alvarado  
State Affairs  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law provides an opportunity for a commercial landlord to reclaim possession of a unit if the tenant is "using the premises or allowing the premises to be used for the purposes of prostitution, promotion of prostitution, aggravated promotion of prostitution, ...compelling prostitution, ...or trafficking of persons."

S.B. 498 addresses the proliferation of illicit massage businesses by allowing commercial landlords to reclaim possession of units if, in addition to the activities above, a tenant is "operating, maintaining, or advertising a massage establishment" that does not comply with state law or local ordinance.

Additionally, S.B. 498 allows other tenants of the commercial landlord the opportunity to terminate a lease and vacate the property without penalty if the tenant reasonably believes that another tenant is engaging in prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, trafficking of persons, or operating an illicit massage business, the tenant provides written notice to the landlord about the illegal conduct, and the landlord fails to take action against the offending tenant through available remedies under law. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 498 amends current law relating to a commercial landlord's or tenant's remedies regarding certain unlawful activities in a multiunit commercial property.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 93.013(a), Property Code, as follows:

(a) Provides that a tenant's right of possession terminates and the landlord has a right to recover the possession of the leased premises if the tenant is using the premises or allowing the premises to be used for the purposes of:

- (1) creates this subdivision from existing text and makes a nonsubstantive change;
- (2) creates this subdivision from existing text and makes a nonsubstantive change;  
or
- (3) operating, maintaining, or advertising a massage establishment, as defined by Section 455.001 (Definitions), Occupations Code, that is not in compliance with Chapter 455 (Massage Therapy), Occupations Code, or an applicable local ordinance relating to the licensing or regulation of a massage establishment.

SECTION 2. Amends Chapter 93, Property Code, by adding Section 93.014, as follows:

Sec. 93.014. RIGHT TO VACATE DUE TO CERTAIN UNLAWFUL ACTIVITIES IN MULTIUNIT COMMERCIAL PROPERTY. (a) Defines "multiunit commercial property" and "unlawful activity" for purposes of this section.

(b) Provides that a landlord of a multiunit commercial property is in breach of a lease with a tenant if:

(1) the tenant reasonably believes that another tenant in the same multiunit commercial property is engaging in an unlawful activity;

(2) the complaining tenant gives the landlord written notice of the offending tenant's engagement in the unlawful activity, including a statement of the basis for the complaining tenant's reasonable belief that the offending tenant is engaging in the activity; and

(3) the landlord does not file a forcible detainer suit against the offending tenant under Section 93.013 (Certain Unlawful Uses of Premises; Termination of Tenant's Right of Possession) before the 30th day after the date the notice is given.

(c) Authorizes the tenant, notwithstanding a provision of the lease to the contrary, if a landlord is in breach of a tenant's lease under Subsection (b), to terminate the tenant's rights and obligations under the lease, vacate the leased premises, and avoid liability for future rent and any other sums due under the lease for terminating the lease and vacating the premises before the end of the lease term.

(d) Provides that this section does not prohibit a landlord from pursuing a civil action against a complaining tenant for any amount due under the complaining tenant's lease if, after the landlord investigates the offending tenant, the landlord determines the complaining tenant's belief regarding the unlawful activity, as stated in the written notice under Subsection (b)(2), was not reasonable.

(e) Provides that in a civil action described by Subsection (d), there is a rebuttable presumption that a complaining tenant's belief regarding an offending tenant's engagement in unlawful activity is reasonable if the complaining tenant gave the landlord the notice required by Subsection (b)(2).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2019.