

BILL ANALYSIS

S.B. 1414
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There are concerns that landlords may be reluctant to charge residential tenants late fees for late rent payments and may be more likely to seek evictions of tenants who pay rent late due to uncertainty on how to comply with the law regarding these late fees. S.B. 1414 seeks to address these concerns by clarifying the existing law relating to fees resulting from a residential tenant's failure to timely pay rent.

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

S.B. 1414 amends the Property Code to replace the prohibition against a landlord charging a tenant a late fee for failing to pay rent unless certain conditions exist with a prohibition against a landlord collecting from a tenant a late fee for failing to pay any portion of the tenant's rent unless certain conditions exist. The bill revises those conditions by:

- replacing the condition that the rent has remained unpaid one full day after the date the rent was originally due with a condition that any portion of the rent has remained unpaid for two full days after that original due date; and
- replacing the condition that the fee is a reasonable estimate of uncertain damages to the landlord that are incapable of precise calculation and result from late payment of rent with a condition that the fee is reasonable.

S.B. 1414 establishes that a late fee is considered reasonable if the fee is:

- not more than 12 percent of the amount of rent for the rental period under the lease for a dwelling located in a structure that contains not more than four dwelling units or not more than 10 percent of the amount of rent for the rental period under the lease for a dwelling located in a structure that contains more than four dwelling units; or
- more than that applicable amount, but not more than uncertain damages to the landlord related to the late payment of rent, including direct or indirect expenses, direct or indirect costs, or overhead associated with the collection of late payment.

S.B. 1414 establishes that the combined fees of an initial late fee and a daily fee for each day the rent remains unpaid are considered to be a single late fee and specifies that the daily fee is for each day any portion of the tenant's rent remains unpaid. The bill changes the basis for the portion of the amount a landlord is liable to a tenant for a violation that relates to a late fee from three times the amount of the late fee charged to three times the amount of the late fee collected.

S.B. 1414 authorizes a tenant to request that the landlord provide to the tenant a written statement of whether the tenant owes a late fee to the landlord and, if so, the amount of the late fee. The bill authorizes the landlord to provide the statement to the tenant by any established means regularly used for written communication between the landlord and the tenant and establishes that a landlord's failure to respond does not affect the tenant's liability for any late fee owed to the landlord.

EFFECTIVE DATE

September 1, 2019.