By:  Hancock S.B. No. 1414

(In the Senate - Filed March 1, 2019; March 14, 2019, read first time and referred to Committee on Business & Commerce; April 10, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 1; April 10, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton            X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire             X

Zaffirini                X

COMMITTEE SUBSTITUTE FOR S.B. No. 1414 By:  Hancock

A BILL TO BE ENTITLED

AN ACT

relating to fees regarding a residential tenant's failure to timely pay rent.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 92.019, Property Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (a-2) to read as follows:

(a)  A landlord may not collect from [~~charge~~] a tenant a late fee for failing to pay any portion of the tenant's rent unless:

(1)  notice of the fee is included in a written lease;

(2)  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~~]; and

(3)  any portion of the tenant's rent has remained unpaid two [~~one~~] full days [~~day~~] after the date the rent was originally due.

(a-1)  A tenant may 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 landlord may provide the statement to the tenant by any established means regularly used for written communication between the landlord and the tenant. A landlord's failure to respond does not affect the tenant's liability for any late fee owed to the landlord.

(a-2)  For purposes of this section, a late fee is considered reasonable if the late fee does not exceed 12 percent of the amount of rent for the rental period under the lease. A late fee that exceeds 12 percent of the amount of rent for the rental period under the lease is considered reasonable if the late fee does not exceed uncertain damages to the landlord related to late payment of rent, including direct or indirect expenses, direct or indirect costs, or overhead associated with the collection of late payment.

(b)  A late fee under this section may include an initial fee and a daily fee for each day any portion of the tenant's rent continues to remain unpaid, and the combined fees are considered a single late fee for purposes of this section.

(c)  A landlord who violates this section is liable to the tenant for an amount equal to the sum of $100, three times the amount of the late fee collected [~~charged~~] in violation of this section, and the tenant's reasonable attorney's fees.

SECTION 2.  Section 92.019, Property Code, as amended by this Act, applies only to a late fee under a lease entered into or renewed on or after the effective date of this Act. A late fee under a lease entered into or renewed before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3.  This Act takes effect September 1, 2019.

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