

BILL ANALYSIS

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S.B. 2493
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, when tenants make certain repairs permitted by law for health and safety that their landlord will not make after requested, they must hire a contractor that is listed in the "Yellow Pages." Another option is the "classified advertising section of a newspaper," an antiquated and often non-existent or woefully incomplete place to look in modern times.

S.B. 2493 replaces this outdated requirement to provide instead that repairs made pursuant to a tenant's notice of intent to repair must be made by an independent company, contractor, or repairman, who must be licensed by the municipality in which the rental unit is located, if applicable.

Additionally, when tenants leave a property upon termination of a lease, there are certain notices of a forwarding address that are required under the law that do not comport with modern online leasing practices, are confusing, and are impractical. Moreover, the current requirement is more restrictive than necessary to assure that a tenant delivers a forwarding address to the landlord.

This bill allows a tenant ordinary means to satisfy the requirement to provide the landlord a written statement of the tenant's forwarding address for the purpose of refunding the security deposit in the following ways:

- (1) providing the statement in accordance with the lease; or
- (2) regardless of the lease terms, hand-delivering the statement to the landlord or landlord's property manager if rent has been paid in that manner, or sending the statement to the landlord or landlord's property manager or to an address where the tenant has paid rent under the lease. This can be done using the United States Postal Service or other certain delivery services that confirm delivery.

The bill establishes that a tenant who complies with the authorized methods of delivery above has satisfied the requirement, even if the landlord fails to claim or refuses delivery of the written statement of the tenant's forwarding address. The current law sets out specific provisions relating to a landlord's bad faith in returning a security deposit or accounting for deductions. The bill includes a provision that delivery as specified satisfies the tenant's forwarding address requirement, among the other conditions that must be met in order for a landlord to be presumed to have acted in bad faith.

As proposed, S.B. 2493 amends current law relating to repairs made pursuant to a tenant's notice of intent to repair and the refund of a tenant's security deposit.

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 92.0561(f), Property Code, as follows:

(f) Requires that repairs made pursuant to the tenant's notice be made by an independent company, contractor, or repairman, rather than by a company, contractor, or repairman listed in the yellow or business pages of the telephone directory or in the classified advertising section of a newspaper of the local city, county, or adjacent county at the time of the tenant's notice of intent to repair. Requires the person or entity performing the repair, if the rental unit is located in a municipality requiring the company, contractor, or repairman to be licensed, to be licensed in accordance with the municipality's requirements. Makes a nonsubstantive change.

SECTION 2. Amends Section 92.107, Property Code, as follows:

Sec. 92.107. TENANT'S FORWARDING ADDRESS. (a) Provides that the landlord is not obligated to return a tenant's security deposit or give the tenant a written description of damages and charges until the tenant provides the landlord, rather than gives the landlord, a written statement of the tenant's forwarding address for the purpose of refunding the security deposit.

(b) Authorizes a tenant to satisfy the requirement of Subsection (a):

(1) by providing the statement in accordance with the lease; or

(2) regardless of the lease terms, by:

(A) hand-delivering the statement to the landlord or landlord's property manager if rent has been paid in that manner; or

(B) sending the statement to the landlord or landlord's property manager or to an address where the tenant has paid rent under the lease by first class mail, by certified mail, return receipt requested, by registered mail, or by any other delivery service that provides delivery tracking information.

(c) Provides that a tenant who complies with Subsection (b) has satisfied the requirement of Subsection (a), even if the landlord fails to claim or refuses delivery of the written statement of the tenant's forwarding address.

(d) Creates this subsection from existing text.

SECTION 3. Amends Section 92.109(d), Property Code, as follows:

(d) Provides that a landlord is presumed to have acted in bad faith if the landlord fails either to return a security deposit or to provide a written description and itemization of deductions on or before the 30th day after the date the tenant has both surrendered possession and satisfied the requirement of Section 92.107(a). Makes nonsubstantive changes.

SECTION 4. Amends Section 94.107, Property Code, as follows:

Sec. 94.107. TENANT'S FORWARDING ADDRESS. (a) Provides that the landlord is not obligated to return a tenant's security deposit or give the tenant a written description of damages and charges until the tenant provides the landlord, rather than gives the landlord, a written statement of the tenant's forwarding address for the purpose of refunding the security deposit.

(b) Authorizes a tenant to satisfy the requirement of Subsection (a):

(1) by providing the statement in accordance with the lease; or

(2) regardless of the lease terms, by:

(A) hand-delivering the statement to the landlord or landlord's property manager if rent has been paid in that manner; or

(B) sending a statement to the landlord or landlord's property manager or to an address where the tenant has paid rent under the lease by first class mail, by certified mail, return receipt requested, by registered mail, or by any other delivery service that provides delivery tracking information.

(c) Provides that a tenant who complies with Subsection (b) has satisfied the requirement of Subsection (a), even if the landlord fails to claim or refuses delivery of the written statement of the tenant's forwarding address.

(d) Creates this subsection from existing text.

SECTION 5. Amends Section 94.109(d), Property Code, as follows:

(d) Provides that a landlord is presumed to have acted in bad faith if the landlord fails either to return a security deposit or to provide a written description and itemization of deductions on or before the 30th day after the date the tenant has both surrendered possession and satisfied the requirement of Section 94.107(a). Makes nonsubstantive changes.

SECTION 6. Amends Section 94.157(g), Property Code, as follows:

(g) Requires that repairs made based on a tenant's notice be made by an independent company, contractor, or repairman, rather than by a company, contractor, or repairman listed at the time of the tenant's notice of intent to repair in the yellow or business pages of the telephone directory or in the classified advertising section of a newspaper of the municipality or county in which the manufactured home community is located or in an adjacent county. Requires the person or entity performing the repair, if the rental unit is located in a municipality requiring the company, contractor, or repairman to be licensed, to be licensed in accordance with the municipality's requirements.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2023.