

BILL ANALYSIS

C.S.H.B. 1821
By: Clardy
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that the amount of the late fee a landlord may charge a tenant for the failure to pay rent is unclear and that this uncertainty may lead to costly and unnecessary litigation over this issue. C.S.H.B. 1821 seeks to reduce this uncertainty by establishing standardized fees for the failure to pay rent that are capped at specified amounts.

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. 1821 amends the Property Code to change one of the required conditions that trigger an exception to the prohibition against a landlord charging a tenant a late fee for failing to pay rent from such a fee being a reasonable estimate of uncertain damages to the landlord that are incapable of precise calculation and result from late payment of rent to the initial late fee not exceeding eight percent of one month's rent and each subsequent daily late fee not exceeding one percent of one month's rent. The bill caps at 15 the number of days for which a daily late fee may be charged for the rent remaining unpaid after the date the rent was originally due.

C.S.H.B. 1821 repeals Section 92.019(b), Property Code.

EFFECTIVE DATE

January 1, 2018.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1821 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

SECTION 1. Section 92.019, Property Code, is amended by amending Subsections

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 92.019, Property Code, is amended by amending Subsections

85R 24942

17.110.1475

Substitute Document Number: 85R 19708

(a) and (e) and adding Subsection (a-1) to read as follows:

(a) A late fee under this section may include an initial fee and a daily fee for each day

the rent continues to remain unpaid.

(a-1) A landlord may not charge a tenant a late fee for failing to pay rent unless:

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

(2) the initial fee does not exceed eight percent of one month's rent and each subsequent daily fee does not exceed two percent of one month's ~~[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) the rent has remained unpaid one full day after the date the rent was originally due.

(e) This section relates only to a fee, charge, or other sum of money required to be paid under the lease if rent is not paid as provided by Subsection (a-1)(3) ~~[(a)(3)]~~, and does not affect the landlord's right to terminate the lease or take other action permitted by the lease or other law. Payment of the fee, charge, or other sum of money by a tenant does not waive the right or remedies provided by this section.

SECTION 2. Section 92.019(b), Property Code, is repealed.

SECTION 3. Section 92.019, Property Code, as amended by this Act, applies only to a lease entered into or renewed on or after the effective date of this Act. 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 4. This Act takes effect January 1, 2018.

(a) and (e) and adding Subsection (a-1) to read as follows:

(a) A late fee under this section may include:

(1) an initial fee; and

(2) a daily fee for each day, not to exceed 15 days, after the date the rent was originally due that

the rent continues to remain unpaid.

(a-1) A landlord may not charge a tenant a late fee for failing to pay rent unless:

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

(2) the initial fee does not exceed eight percent of one month's rent and each subsequent daily fee does not exceed one percent of one month's ~~[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) the rent has remained unpaid one full day after the date the rent was originally due.

(e) This section relates only to a fee, charge, or other sum of money required to be paid under the lease if rent is not paid as provided by Subsection (a-1)(3) ~~[(a)(3)]~~, and does not affect the landlord's right to terminate the lease or take other action permitted by the lease or other law. Payment of the fee, charge, or other sum of money by a tenant does not waive the right or remedies provided by this section.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.