

BILL ANALYSIS

S.B. 498
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been suggested that further legal remedies are needed to prevent the proliferation of illicit massage businesses. S.B. 498 seeks to provide such remedies by adding operation of a massage establishment that does not comply with state law or local ordinance to the unlawful activities that constitute grounds for a commercial landlord to reclaim possession of rental premises. The bill also authorizes a tenant of a multiunit commercial property to terminate a lease without penalty if the tenant notifies the landlord of certain possible unlawful activity by another tenant and the landlord fails to take legal action.

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. 498 amends the Property Code to establish that a commercial tenant's right of possession terminates and the landlord has a right to recover possession of the leased premises if the tenant is using the premises or allowing the premises to be used for the purposes of operating, maintaining, or advertising a massage establishment that is not in compliance with Occupations Code provisions relating to the licensing and regulation of massage therapy or an applicable local ordinance relating to the licensing and regulation of such an establishment.

S.B. 498 establishes that a landlord of a multiunit commercial property is in breach of a lease with a tenant who reasonably believes that another tenant in the same multiunit commercial property is engaging in certain unlawful activity if the complaining tenant gives the landlord written notice of the offending tenant's engagement in the unlawful activity and the landlord does not file a forcible detainer suit for the unlawful use of premises against the offending tenant before the 30th day after the notice date. The bill provides for the meaning of "multiunit commercial property" and defines "unlawful activity" for this purpose as the following offenses or activities:

- prostitution, promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- trafficking of persons; or
- operating, maintaining, or advertising a massage establishment that is not in compliance with Occupations Code provisions relating to the licensing and regulation of massage

therapy or an applicable local ordinance relating to the licensing and regulation of such an establishment.

The bill authorizes a tenant whose landlord is in breach of the tenant's lease on the grounds described by the bill 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.

S.B. 498 expressly 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 that the complaining tenant's belief regarding the unlawful activity, as stated in the complaining tenant's written notice to the landlord, was not reasonable. The bill establishes a rebuttable presumption in such a civil action that a complaining tenant's belief regarding an offending tenant's engagement in unlawful activity is reasonable if the complaining tenant gave the required notice to the landlord.

EFFECTIVE DATE

September 1, 2019.