

BILL ANALYSIS

C.S.H.B. 1647
By: Walle
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

COVID-19-related job loss and economic hardship has affected the ability of many renters to pay rent during the pandemic, and there are concerns that there will be a surge of evictions once eviction protections are lifted. Whether a tenant is evicted, or even if the case is dismissed, the eviction filing will remain on the tenant's record for seven years, and since evictions are reported to tenant screening companies, the tenant will have a harder time renting elsewhere. Eviction records have a lasting impact on a tenant's ability to find housing, often exacerbating the financial problems that led to the tenant being evicted from their residence in the first place. C.S.H.B. 1647 seeks to provide relief to such tenants by providing for the confidentiality of eviction case information for evictions related to the COVID-19 pandemic.

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 rulemaking authority is expressly granted to the Texas Supreme Court in SECTIONS 1 and 2 of this bill.

ANALYSIS

C.S.H.B. 1647 amends the Property Code to require a court to enter an order making the case information pertaining to the defendant in an eviction case confidential, either concurrently with a final judgment or dismissal or on petition of the defendant after a final judgment or dismissal, under any of the following circumstances:

- the judgment is or was entered in favor of the defendant;
- the eviction case is or was dismissed without any relief granted to the plaintiff;
- the defendant is or was a tenant not otherwise in default and the eviction case was brought by the landlord's successor in interest following foreclosure; or
- at least three years have elapsed from the date of the final judgment in the eviction case.

Apart from those circumstances, a court may enter an order making the case information confidential if the court finds that it is in the interest of justice and that the interest of justice is not outweighed by the public's interest in knowing the eviction case information.

If an order making the case information confidential is entered, all courts or court clerks are required to delete or redact from the public records all index references to the name of the defendant that relate to the eviction case information. The bill also prohibits a credit reporting agency, a person who regularly collects and disseminates eviction case information, or a person who sells eviction case information, if such an order is entered, from disclosing the existence of the case or using the case information as a factor in determining a score or recommendation in a tenant screening report regarding the defendant. The bill makes a person who knowingly

violates these provisions liable to an injured party for actual damages, exemplary damages of \$1,000, and reasonable attorney's fees and court costs. The bill requires a court to award exemplary damages to the injured party irrespective of whether the party is awarded actual damages.

C.S.H.B. 1647 limits the applicability of its provisions to an eviction case in which an order making the case information confidential has not been entered and that is brought under statutory provisions relating to forcible entry and detainer for nonpayment of rent during a state of disaster declared by the governor related to the coronavirus disease (COVID-19) pandemic as follows:

- before the 180th day after the date of termination of that state of disaster; or
- against a defendant who files with the court a statement that the defendant's nonpayment of rent was due to financial hardship caused by the pandemic.

The bill restricts access to information for an applicable eviction case to the following persons:

- a party to the action, including the party's attorney; or
- any person if a final, nonappealable judgment in the case was entered for the plaintiff.

A credit reporting agency, a person who regularly collects and disseminates eviction case information, or a person who sells eviction case information may use the information only if access is permitted to any person. The bill's restrictions on access to case information may not be construed to prohibit the court from issuing an order that bars access to eviction case information if the parties to the case so stipulate and do not apply to an eviction case based on actions of the tenant that create an imminent threat to the health or safety of the landlord, a member of the landlord's or tenant's household, other tenants, or neighbors.

C.S.H.B. 1647 requires the Texas Supreme Court, not later than January 1, 2022, to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

January 1, 2022.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1647 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes the type of order a court is required to enter from an order of limited dissemination of eviction case information pertaining to the defendant to an order making the information confidential in the eviction case.

The substitute limits the applicability of its provisions to certain eviction cases related to the coronavirus disease (COVID-19) pandemic and brought under statutory provisions relating to forcible entry and detainer for nonpayment of rent.

With respect to an eviction case in which an order making the case information confidential has not been entered, the substitute differs from the original as follows:

- replaces requirements for a court clerk to allow access to specified persons, other than a party or a party's attorney, under certain conditions with a requirement to allow access to any person if a final, nonappealable judgment in the case was entered for the plaintiff;
- includes a provision limiting the use of eviction case information by a credit reporting agency, a person who regularly collects and disseminates eviction case information, or a person who sells eviction case information to cases in which a final, nonappealable judgment in the case was entered for the plaintiff;
- excludes from case information access restrictions an eviction case based on actions of the tenant that create an imminent threat to the health or safety of the landlord, a member of the landlord's or tenant's household, other tenants, or neighbors; and

- does not include the following:
 - a provision establishing what constitutes good cause for access to eviction case information; and
 - requirements for the court clerk to provide certain notice to each defendant named in an eviction case after the case is filed, including requirements for the notice's content and method of delivery.