

BILL ANALYSIS

C.S.H.B. 2803
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the hundreds of illicit massage businesses that operate throughout Texas, since these businesses are typically fronts for prostitution and human trafficking and often have ties to organized crime. Although these businesses are undeniably prevalent in large cities, they are increasingly infiltrating smaller cities and suburbs and attracting violent crime, which often goes unreported. Furthermore, these businesses tarnish the reputation of legitimate massage therapy by using a needed and respected service as cover for criminal acts. C.S.H.B. 2803 seeks to address this issue and protect legitimate tenants by allowing commercial tenants to terminate their lease if the person or entity leasing to them also leases to an unlicensed massage establishment within the same multiunit commercial property.

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. 2803 amends the Property Code to establish that the landlord of a multiunit commercial property is in breach of a lease with a tenant under the following circumstances:

- the tenant reasonably believes that another tenant in the same property is engaging in certain prostitution offenses; trafficking of persons; or the operation, maintenance, or advertisement of a massage establishment that is not in compliance with applicable state law or local ordinances relating to the licensing or regulation of massage establishments;
- the complaining tenant makes a report regarding the unlawful activity to a local law enforcement agency with appropriate jurisdiction;
- the complaining tenant gives the landlord written notice of the offending tenant's engagement in the unlawful activity, including the following:
 - a statement of the basis for the complaining tenant's reasonable belief that the offending tenant is engaging in the activity; and
 - a copy of the report made to local law enforcement; and
- the landlord does not file a forcible detainer suit against the offending tenant for unlawful use of the premises before the 30th day after the date the notice is given.

The bill authorizes a tenant whose landlord is in breach of the lease under those circumstances to terminate the tenant's rights and obligations under the lease, vacate the premises, and avoid liability for future rent and for any other sums due under the lease as a result of taking those actions before the end of the lease term.

C.S.H.B. 2803 expressly does not prohibit a multiunit commercial landlord from pursuing a civil action against a complaining tenant for any amount due under that tenant's lease if the landlord determines after investigating the offending tenant that the complaining tenant's belief regarding the unlawful activity was not reasonable. The bill establishes a rebuttable presumption in such a civil action that the complaining tenant's belief is reasonable if the complaining tenant gave the landlord the required notice.

C.S.H.B. 2803 defines "multiunit commercial property" and "unlawful activity" for purposes of the bill's provisions and establishes that a commercial tenant's right of possession terminates and the landlord has a right to repossess the leased premises if the tenant is using or allowing the use of those premises to operate, maintain, or advertise a massage establishment that is not compliant with applicable state law or local ordinances relating to the licensing or regulation of massage establishments.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2803 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 includes as conditions additional to those in the original for determining a breach of lease on the part of an applicable landlord that the complaining tenant must have reported the suspected unlawful activity of the offending tenant to a local law enforcement agency with appropriate jurisdiction and must include a copy of that report in the notice given to the landlord.