

SUBJECT: One full day grace period for overdue rent payments before late fee charge

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 14 ayes — Solomons, Menendez, Cook, Craddick, Farabee, Gallego, Harless, Hilderbran, Jones, Lucio, Maldonado, Oliveira, Swinford, S. Turner

0 nays

1 absent — Geren

WITNESSES: For — David Mintz, Texas Apartment Association; (*Registered, but did not testify*: Robert Doggett, Texas Low Income Housing Information Service; Mark Lehman, Texas Association of Realtors)

Against — None

BACKGROUND: Property Code, Title 8 establishes rights and duties in a landlord-tenant arrangement. Sec. 92.019 permits a landlord to charge a late fee on rent payment if notice of the fee is included in a written lease, the fee is a reasonable estimate of damages to the landlord that cannot be precisely calculated, and the rent remains unpaid after the second day it was originally due.

DIGEST: HB 1109 would amend Property Code, sec. 92.109 to state that rent must have remained unpaid for one full day after the due date in order for a tenant to be charged a late fee.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

SUPPORTERS SAY: HB 1109 would clarify the intent of previous legislation. The 80th Legislature in 2007 enacted HB 3101 by Anchia, which was meant to give tenants a one-day grace period after the day on which rent was due and to permit landlords to charge a late fee beginning on the third day. There has been some confusion about this, however, and some have interpreted the

law to refer to the fourth day. Requiring rent to have been unpaid for one full day after its original due date should remove the confusion. A grace period for rent payment included in statute would prevent tenants from facing late fees the first day after the rent was due, and all prior notification requirements would remain in effect.

**OPPONENTS
SAY:**

This bill would reduce the time that tenants have to pay rent before incurring a late fee. Requiring landlords to wait until after the second day the rent is overdue to charge a late fee provides a reasonable length of time for tenants to pay their rent. Many low-income residents need a few extra days to pay their rent in order to put money toward paying utility costs or do not receive paychecks within a few days of the rent being due.

NOTES:

An identical bill, SB 716 by Carona, was reported favorably by the Senate Business and Commerce Committee on April 8.