

SUBJECT: Liability of cosigners and guarantors under residential lease agreements

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 10 ayes — Deshotel, Elkins, Christian, England, Gattis, Keffer, S. Miller, Orr, Quintanilla, S. Turner

0 nays

1 absent — Giddings

WITNESSES: For — Felicitas Cadena

Against — Edra Anderson, Texas Association of Realtors; David Mintz, Texas Apartment Association

DIGEST: HB 534 would make a person other than a tenant who cosigns or guarantees a residential lease agreement be liable only for the original lease term. This bill would void any lease that purported to renew for an additional term the liability of a person other than a tenant who cosigned or guaranteed a lease.

The bill would apply to any lease agreement that is executed or renewed on or after September 1, 2009. This bill would take effect September 1, 2009.

SUPPORTERS SAY: HB 534 would protect individuals who cosign or guarantee the lease of another individual from a lifetime responsibility to that lease. Guarantor documents do not have an expiration date, which is not made clear to those choosing to sign the document. These documents are irrevocable once signed. There is no reason for the document not to have an expiration date or to be immune to amendment. After the first lease term, property management should have a substantial rental history and usually should not require a guarantor. Should the management require a guarantor, it would be that individual's decision to guarantee a tenant's renewed lease.

Property management is not responsible for notifying a cosigner or guarantor when the individual violates the lease agreement or renews the lease, and legal action should be taken against the tenant rather than the

guarantor. After the end of the original lease term, guarantors are unaware of their continued responsibility, and when legal action is taken, a guarantor is not notified.

**OPPONENTS
SAY:**

HB 534 would restrict the abilities of certain tenants of single-family dwellings from obtaining suitable housing. Individuals who have recently had a foreclosure or credit issues, or college students without rental history, might be forced to move more often or live in lower-quality housing. This bill would make month-to-month lease agreements virtually impossible. Guarantors often are used in the case of an elderly parent. This bill would prohibit long-term agreements, creating unnecessary hassle each time the lease agreement was renewed. This bill should be amended to allow for the negotiation of an expiration date.

NOTES:

Rep. Anchia intends to offer a floor amendment to allow a guarantor to specify in the original guarantor document the length of time the individual agreed to guarantee the lease agreement, and would not automatically commit a guarantor to any changes to the lease agreement upon renewal. The amendment also would change the bill's effective date to January 1, 2010.