

SUBJECT: Revising requirements for smoke alarms in residential rental units

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 8 ayes — Deshotel, Orr, Bohac, Garza, Giddings, S. Miller, Quintanilla, Solomons

0 nays

1 absent — Workman

WITNESSES: For — Marc Ross, Texas Apartment Association; (*Registered, but did not testify*): Robert Doggett, Texas Housing Justice League; Mike Higgins, Texas State Association of Fire Fighters; David Mintz, Texas Apartment Association; Steve Scurlock, Independent Bankers Association of Texas)

Against — None

DIGEST: CSHB 1168 would amend Property Code, sec. 92.255 to require a smoke alarm be placed within each bedroom for rental properties that held three or more dwelling units. Smoke alarms also would be required in a hallway serving multiple bedrooms in a unit, and multilevel units would require at least one alarm per level. Residential units that had been occupied or had a certificate of occupancy issued before September 1, 2011, could install a battery-powered smoke alarm, rather than a hardwired alarm.

Smoke alarms could be battery powered unless another power source was required by local ordinance. A local ordinance could not require property owners to install a hardwired smoke alarm system for a unit that was in compliance with the fire code and built before September 1, 1987, unless:

- the interior of the unit experienced repairs, renovations, or additions that totaled more than \$5,000;
- the building alterations required a municipal building permit; and
- either the renovations resulted in the removal of an interior wall or ceiling or the unit had an alternative access for easy installation (e.g. a crawl space or tiled ceiling).

A landlord who installed a non-rechargeable, single-use, residential fire extinguisher as defined by the National Fire Protection Association in accordance with local laws would be required to inspect the extinguisher when a new tenant took possession and within a reasonable time after receiving a written request by the resident. A property owner would have to check to ensure a fire extinguisher was in a residential unit and make sure the gauge or pressure display indicated the correct pressure recommended by the manufacturer. This assessment of the fire extinguisher would satisfy the inspection requirement until the tenant requested a new examination in writing.

A landlord would be required to repair or replace a fire extinguisher if upon inspection it did not work properly, did not have the correct pressure indicated from the gauge, or the tenant had used the extinguisher for a legitimate purpose. The landlord would not have to repair or replace the fire extinguisher if the tenant or an invited guest disabled the extinguisher through improper use. In this circumstance, the landlord would have to replace or repair the fire extinguisher within a reasonable time if the tenant paid the costs.

CSHB 1168 also would make several conforming changes to the Property Code, including changing the reference from “smoke detector” to “smoke alarm.” The bill would repeal specific installation requirements of smoke alarms for properties constructed or occupied on or before September 1, 1981.

Landlords would be required to comply with the changes in the Property Code by January 1, 2013.

The bill would take effect on September 1, 2011, and would apply to residential units occupied or issued a certificate of occupancy issued before this date.

**SUPPORTERS
SAY:**

CSHB 1168 would bring Texas back in line with international fire codes. In the early 1980s, Texas was a national leader in requiring smoke alarms in rental properties, but current laws use outdated language and standards based on old information. The language within many municipal fire codes is filled with legal references, making it difficult for the average person to interpret. This bill would clarify the language to ensure both property owners and tenants understood what was necessary for compliance. A smoke alarm would be required in each bedroom of a rental property

that was larger than a duplex. It had been standard to require that smoke alarms be placed near bedrooms, but not within them, yet firefighters stress the importance of sleeping with closed doors to prevent smoke inhalation in the event of a fire. Families may not hear an alarm outside the room, or an alarm may not detect a fire that starts in a bedroom with a closed door. This oversight puts many lives at risk, and CSHB 1168 would remedy this dangerous problem.

The bill would balance the need for improved fire safety with easing some of the measures that are more onerous and unnecessary. Landlords would be permitted to use battery-powered smoke alarms for bedrooms, which would not have to be interconnected to a larger system. Also, properties with leases signed before September 1, 2011 would not have to install the smoke alarms until January 1, 2013, to allow property owners enough time to comply with the standards. The bill also would provide flexibility for cities and municipalities to implement tighter restrictions for smoke alarms in properties built after the bill's effective date.

CSHB 1168 would clarify requirements for inspections of single-use, non-refillable residential fire extinguishers. Current law on inspecting single-use fire extinguishers often is misinterpreted. Some communities have understood it to require an annual inspection of the extinguishers that involved an external agent, such as a fire department or city inspection team. This misinterpretation can be burdensome for property owners and taxpayers alike. Annual inspections are required for the large, refillable fire extinguishers often seen in public buildings, but these types of single-use extinguishers have a color coded gauge that can easily be checked to determine if they are in working order. Property owners must have each unit inspected at \$4 to \$10 each. An inspection for a large complex could easily cost \$1,000 for a task that could be carried out internally. Given the tough budget situations faced in many communities, it would make sense to prioritize the time of city inspectors and firefighters to focus on the most important tasks.

**OPPONENTS
SAY:**

CSHB 1168 could become a drain on landlords' time and finances. Many landlords in Texas manage smaller, multi-family units (e.g. triplex), work other jobs, and use their rental property as a future investment. Increasing the number of smoke detectors in these properties would impact their pocketbooks and take up time.

NOTES:

The original version of the bill did not include the provisions in the committee substitute related to units built or occupied before September 1, 1987, that would require a landlord to comply with local ordinance for smoke alarms if there were repairs, renovations, or additions worth more than \$5,000 completed on the unit.

The committee substitute included provisions to permit landlords to install battery-operated smoke alarms for units occupied or issued a certificate of occupancy before September 1, 2011. The original bill contained a stipulation that would require a smoke alarm specification to comply with local ordinance.

The committee substitute included a requirement to ensure that a fire extinguisher was present at the time of inspection and to repair or replace an extinguisher if the gauge suggested that the device was not in working order. The committee substitute also included a time frame for a landlord to replace or repair a fire extinguisher that was paid for by the tenant as a result of improper use.

The companion bill, SB 1099 by Van de Putte, was reported favorably, as substituted, by the Senate Business and Commerce Committee on April 11 and has been placed on the April 21 Local and Uncontested Calendar .