

SUBJECT: Remedies for tenants whose landlords failed to maintain the premises

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 6 ayes — Deshotel, Orr, Bohac, Giddings, S. Miller, Quintanilla

1 nay — Garza

2 absent — Solomons, Workman

WITNESSES: For — Jennifer Richie, City of Irving; (*Registered, but did not testify:*  
Mike Barnett, Texas Association of Realtors; David Mintz, Texas  
Apartment Association)

Against — None

DIGEST: HB 1862 would grant remedies to a tenant if the city or county revoked the certificate of occupancy held by the tenant's landlord due to failure to maintain the premises. If the tenant had not defaulted on the lease, the landlord would be liable for:

- the tenant's full security deposit;
- the prorated amount of any rent paid by the tenant in advance;
- actual damages incurred by the tenant, including moving costs, utility connection fees, storage fees, and lost wages; and
- court costs and attorney's fees from any related cause of action brought by the tenant against the landlord.

The bill would take effect September 1, 2011, and would apply only to leases entered into on or after that date.

SUPPORTERS SAY: In the rare instance when a city or county revokes a certificate of occupancy, the public pays to assist the tenants who have been victimized by the irresponsible landlord. HB 1862 would ensure proper accountability and shift the financial burden to the property owners, which would benefit the public. Cities and counties would be able to use those resources otherwise spent assisting tenants on services that local taxpayers need.

HB 1862 would protect innocent tenants when landlords failed to meet minimum housing standards and allowed the property to fall into egregious conditions. The bill would grant remedies to tenants similar to those granted in the Property Code for situations resulting from landlord failures. These remedies would help to restore some financial stability to tenants' lives after dealing with circumstances beyond their control and attributable to their landlords. Accordingly, HB 1862 would be consistent with current Texas law that guards tenants' rights in leasing situations.

Since this bill would address issues separate from the revocation of the certificate of occupancy, property owners and landlords would not be subject to due process violations and lack of notice. Instead, the bill would focus on situations that arose after a certificate of occupancy had been revoked and the tenants required to relocate.

OPPONENTS  
SAY:

HB 1862 could deprive property owners of the opportunity to make repairs before being subject to numerous lawsuits. The bill does not specify a time period for property owners to repair the premises before a tenant could seek remedies. Therefore, the bill potentially could expose property owners to excessive litigation.

Although the remedies provided under HB 1862 are similar to those provided under current law for leasing tenants, they still would be somewhat broad in comparison. Under the bill, there would be no reasonable standard to rein in the tenant's costs associated with retaining an attorney. Attorneys would be able to charge unfair amounts for what could amount to routine legal services. Furthermore, as the bill would extend to "any related cause of action," an action not directly related to this event could be brought against the landlord. As a result, property owners could be vulnerable to unreasonable costs if a court issued judgment for the tenant in a cause of action against the landlord.

NOTES:

The companion bill, SB 1240 by West, was reported favorably, as substituted, by the Senate Intergovernmental Relations Committee on April 14 and was recommended for the Local and Uncontested Calendar.