

BILL ANALYSIS

Senate Research Center

S.B. 1678
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Jurisprudence
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DIGEST

Currently, Texas law provides regulations regarding repairs by a landlord to property, repairs to the property by a tenant and subsequent deduction from rent for the repairs, and termination of a lease by a landlord. Under current law, the total cost of repairs by a tenant cannot exceed one month's rent. This remedy is almost never used because health and safety related repairs are often more costly than one month's rent. Additionally, a landlord can give three days notice to a tenant to vacate and file suit within three days to force the tenant out regardless of whether the tenant has or is willing to correct the lease violation. This bill will simplify the process of tenants getting basic repairs that affect health and safety, create more tools for neighborhoods faced with rundown complexes that lower property values, and require notification of tenants of any change in ownership or management after it happens.

PURPOSE

As proposed, S.B. 1678 provides regulations regarding landlords and tenants of residential property.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 92.056, Property Code, to provide that the landlord's duty under this subsection is subject to Section 92.052(b) regarding conditions that are caused by the tenant and Section 92.054 regarding conditions that are insured casualties. Provides that a landlord has a duty to repair or remedy a condition and is liable to a tenant if the landlord has had a reasonable time to repair or remedy the condition considering the time the landlord knew or should have known about the problem. Deletes existing text regarding judicial remedies and conditions cause by the tenant or which are insured casualties. Authorizes a tenant to whom a landlord is liable under Subsection (a) to terminate the lease if the condition is not repaired or remedied within seven days after the tenant's notice is given in accordance with Section 92.052(a). Provides that a tenant who elects to terminate the lease under Subsection (b) and vacates the premises not later than the 30th day after the date the lease is terminated is released from the obligation to pay rent and is entitled to a pro rata refund of rent from the date the tenant gives notice and is entitled to a refund of the tenant's security deposit according to law. Sets forth regulations regarding the presumptions about reasonable time and diligent effort to repair or remedy. Provides that, if a landlord in bad faith sends notice to a tenant under Subsection (d), the tenant is entitled to actual damages, additional damages not to exceed twice the actual damages, and a civil penalty under Section 92.0563. Makes conforming and nonsubstantive changes.

SECTION 2. Amends Sections 92.0561(b)-(d), Property Code, to prohibit the tenant's deduction for the cost of the repair or remedy from exceeding the amount of two months' rent, rather than one month's rent, under the lease. Authorizes repairs and deductions under this section to be made as often as necessary so long as the total repairs and deductions in any two-month period, rather than one month, do not exceed two months' rent. Authorizes repairs under this section to be made only if the tenant has given notice to the landlord as required by Section 92.056 and a notice by the tenant to the landlord states that the tenant intends to repair or remedy the condition. Requires the tenant, on written request by the landlord, to give the landlord a reasonable description of the intended repair or remedy. Deletes existing text regarding notification by local housing, building, or health officials.

Makes conforming and nonsubstantive changes.

SECTION 3. Amends Chapter 92B, Property Code, by adding Section 92.0564, as follows:

Sec. 92.0564. OTHER JUDICIAL REMEDIES. Authorizes a governmental entity or civic association acting on a tenant's behalf to give notice and file suit against a landlord to enjoin a violation of this subchapter. Authorizes a governmental entity or civil association that prevails in a suit brought under Subsection (a) to recover court costs and reasonable attorney's fees.

SECTION 4. Amends Section 92.201, Property Code, by adding Subsections (g) and (h), to provide regulations regarding disclosure by a landlord of a change in ownership or the use of or change in management company.

SECTION 5. Amends Chapter 24, Property Code, by adding Sections 24.0051 and 24.0052, as follows:

Sec. 24.0051. RESIDENTIAL TENANT'S RIGHT TO CURE DEFAULT BEFORE EVICTION SUIT FILED. Sets forth regulations regarding termination of the lease of a tenant in default and the tenant's right to cure the default before the eviction suit is filed.

Sec. 24.0052. RESIDENTIAL TENANT'S RIGHT TO CURE DEFAULT AFTER EVICTION SUIT FILED. Sets forth regulations regarding actions to be taken by the court if a landlord prevailed in a forcible detainer suit against a residential tenant and the tenant's right to cure the default after the eviction suit is filed.

SECTION 6. Amends Section 24.0061, Property Code, to require the court to notify a tenant in writing of a default judgment for possession by sending a copy of the judgment to the premises by first class mail not later than 24 hours after the entry of the judgment. Requires the writ of possession to order the officer executing the writ to post a written notice printed on poster board meeting certain requirements on the exterior front door of the rental unit notifying the tenant of certain information, and order the officer executing the writ, when the writ is executed, to deliver possession of the premises to the landlord. Makes conforming changes.

SECTION 7. Amends Chapter 92, Property Code, by adding Subchapter I, as follows:

SUBCHAPTER I. TENANT REPORTING

Sec. 92.350. TENANT REPORTING SERVICES. Defines "tenant reporting service."

Sec. 92.351. PROHIBITION AGAINST SUBMITTING FALSE OR DISPUTED MATTERS. Sets forth regulations regarding the furnishing of false tenant information regarding another person to a tenant reporting service.

Sec. 92.532. RIGHT TO NOTICE OF REPORT USED. Requires a landlord or management company, if the landlord or management company rejects a prospective tenant based in whole or in part on information provided by a tenant reporting service, to inform the tenant, upon request within five days, of the name, address, and telephone number of the tenant reporting service and the information obtained from the tenant reporting service, and give a copy of any written report without charge to the tenant.

Sec. 92.353. REMEDIES FOR VIOLATION. Provides that, in addition to other remedies provided by law, a landlord or management company who violates any provision of this subchapter is liable to the tenant for actual damages, plus a civil penalty of \$500, court costs, and reasonable and necessary attorney's fees. Provides that, in addition to the remedies provided in Subsection (a) of this section, if a landlord or management company is notified of a violation of any provision of this subchapter in writing, and fails to withdraw or otherwise correct the information given to the tenant reporting service within 10 days, then the tenant is further entitled to injunctive relief and an additional civil penalty of \$1,000.

SECTION 8. Effective date: September 1, 1997.
Makes application of this Act prospective.

SECTION 9. Emergency clause.