

BILL ANALYSIS

Senate Research Center

H.B. 3101
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Business & Commerce
5/14/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Apartment tenants are often vulnerable to unfair practices of some landlords who abuse their landlord-tenant relationship for monetary gain. These practices include requiring tenants to furnish additional documentation regarding their vehicles or face penalties, charging excessive late fees, and collecting nonrefundable application deposits from tenants who the landlords know do not meet selection criteria. Some landlords try to circumvent eviction procedures by failing to make needed repairs and by locking tenants out illegally. Tenants are often unaware of their existing rights or the ways in which to enforce these rights.

H.B. 3101 is a comprehensive landlord-tenant reform bill intended to ensure fair business dealings between landlord and tenants while prohibiting illegitimate and illegal practices that take advantage of vulnerable tenants. Certain key provisions include clarification of the instances in which a landlord may charge certain payments such as late fees and provides specific disclosures and notices to tenants regarding their rights to prevent lockout and to get repairs.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 92.0081, Property Code, by amending Subsections (b), (d), and (h) and adding Subsections (e-1), (k), and (l), as follows:

(b) Includes changing the door locks on the door to the tenant's individual unit of a tenant who is delinquent in paying at least part of the rent in the list of reasons for which a landlord is authorized to intentionally prevent a tenant from entering the leased premises.

(d) Prohibits a landlord from intentionally preventing a tenant from entering the leased premises unless the landlord's right to change the locks because of a tenant's failure to timely pay rent is placed in the lease, among other reasons. Provides that the name and street address of the individual to whom, or the location of the on-site management office at which, the delinquent rent is authorized to be discussed or paid during the landlord's normal business hours and in underlined or bold print, the tenant's right to receive a key to the new lock at any hour, regardless of whether the tenant pays the delinquent rent, must be stated in a written notice mailed or posted by the landlord in a certain manner and by a certain date.

(e-1) Prohibits a landlord who changes the locks or otherwise prevents a tenant from entering the tenant's individual rental unit from changing the locks or otherwise preventing a tenant from entering a common area of residential rental property.

(h) Authorizes a tenant to recover from a landlord who violates this section a civil penalty of one month's rent plus \$1,000, rather than \$500, actual damages, court costs, and reasonable attorney's fees in an action to recover property damages, actual expenses, or civil penalties, less any delinquent rent or other sums for which the tenant is liable to the landlord in addition to any other remedy provided by law.

(k) Prohibits a landlord from changing the locks on the door of a tenant's dwelling under Subsection (b)(3) when the tenant or any other legal occupant is in the dwelling or more than once during a rental payment period.

(l) Provides that this section does not affect the ability of a landlord to pursue other available remedies, including the remedies provided by Chapter 24 (Forcible Entry and Detainer), Property Code.

SECTION 2. Amends Section 92.0131, Property Code, by adding Subsection (c-1), to authorize a landlord to require a tenant to provide only the make, model, color, year, license number, and state of registration of the vehicle to be parked in a specific parking space or a common parking area that the landlord has made available for tenant use.

SECTION 3. Amends Subchapter A, Chapter 92, Property Code, by adding Section 92.019, as follows:

Sec. 92.019. LATE PAYMENT OF RENT; FEES. (a) Prohibits a landlord from charging a tenant a late fee for failing to pay rent unless notice of the fee is included in a written lease, the fee is a reasonable estimate of uncertain damages to the landlord that are incapable of precise calculation and result from late payment of rent, and the rent remains unpaid after the second day after the date the rent was originally due.

(b) Authorizes a late fee under this section to include an initial fee and a daily fee for each day the rent continues to remain unpaid. Prohibits a daily fee from being charged for more than 15 days for any single month's rent.

(c) Provides that a landlord who violates this section is liable to the tenant for an amount equal to the sum of \$100, three times the amount of the late fee charged in violation of this section, and the tenant's reasonable attorney's fees.

(d) Provides that a provision of a lease that purports to waive a right or exempt a party from a liability or duty under this section is void.

(e) Provides that this section relates only to a fee, charge, or other sum of money required to be paid under the lease if rent is not paid as provided by Subsection (a)(3), and does not affect the landlord's right to terminate the lease or take other action permitted by the lease or other law. Provides that payment of the fee, charge, or other sum of money by a tenant does not waive the right or remedies provided by this section.

SECTION 4. Amends Subchapter A, Chapter 92, Property Code, by adding Section 92.020, as follows:

Sec. 92.020. EMERGENCY PHONE NUMBER. (a) Provides that a landlord must provide to a tenant a telephone number that will be answered 24 hours a day for the purpose of reporting emergencies related to a condition of the leased premises that materially affects the physical health or safety of an ordinary tenant.

(b) Requires a landlord of residential rental property that has an on-site management or superintendent's office to post the phone number required by Subsection (a) prominently outside the management or superintendent's office.

(c) Provides that this section does not apply to or affect a local ordinance governing a landlord's obligation to provide a 24-hour emergency contact number to a tenant that is adopted before January 1, 2008, if the ordinance conforms with or is amended to conform with this section.

SECTION 5. Amends Subchapter A, Chapter 92, Property Code, by adding Section 92.021, as follows:

Sec. 92.021. NOTICE OF INTENT TO VACATE DWELLING OR EXTEND TENANCY. (a) Requires a landlord to request from a tenant written notice of whether the tenant intends to extend the tenancy beyond the term specified in the tenant's lease not sooner than the 90th day and not later than the fifth day before the last day of the lease term specified in a written lease, notwithstanding any other law.

(b) Requires a tenant to respond in writing to a request made by a landlord under Subsection (a) not later than the last day of the lease term specified in the tenant's lease.

(c) Prohibits the requirements of Subsections (a) and (b) from being waived.

SECTION 6. Amends Section 92.056, Property Code, by adding Subsection (g), to require that a lease contain language in underlined or bold print that informs the tenant of the remedies available under this section and Section 92.0561 (Tenant's Repair and Deduct Remedies), Property Code.

SECTION 7. Amends the heading to Subchapter I, Chapter 92, Property Code, to read as follows:

SUBCHAPTER I. RENTAL APPLICATION

SECTION 8. Amends Section 92.351, Property Code, by adding Subdivisions (1-a) and (5-a), to define "application fee" and "rental application."

SECTION 9. Amends Subchapter I, Chapter 92, Property Code, by adding Section 92.3515, as follows:

Sec. 92.3515. NOTICE OF ELIGIBILITY REQUIREMENTS. (a) Requires the landlord to provide to the applicant printed notice of the landlord's tenant selection criteria and the grounds for which the rental application is authorized to be denied, including certain information regarding the applicant, at the time an applicant is provided with a rental application.

(b) Requires the applicant to sign an acknowledgement indicating the notice was provided if the landlord provides the notice under Subsection (a). Provides that if the acknowledgement is not signed there is a rebuttable presumption that the notice was not received by the applicant.

(c) Sets forth a statement regarding the implications of the signing of the acknowledgement that the acknowledgement required by Subsection (b) must include or be substantively equivalent to.

(d) Authorizes the acknowledgement to be part of the rental application if the notice is underlined or in bold print.

(e) Requires the landlord to return the application fee and any application deposit if the landlord rejects an applicant and the landlord has not provided the notice required by Subsection (a).

(f) Requires the landlord to mail the refund check to the applicant at the address furnished by the applicant if an applicant requests a landlord to mail a refund of the applicant's application fee to the applicant.

SECTION 10. Amends Section 92.354, Property Code, as follows:

Sec. 92.354. LIABILITY OF LANDLORD. Provides that a landlord who in bad faith fails to refund an application fee or deposit in violation of this subchapter is liable for an amount equal to the sum of \$100, three times the amount wrongfully retained, and the applicant's reasonable attorney's fees. Deletes existing text providing that a landlord who

in bad faith fails to refund an application fee or deposit in violation of this subchapter is liable for the amount of the application deposit in a suit to recover the deposit.

SECTION 11. Amends Subchapter I, Chapter 92, Property Code, by adding Section 92.355, as follows:

Sec. 92.355. WAIVER. Provides that a provision of a rental application that purports to waive a right or exempt a party from a liability or duty under this subchapter is void.

SECTION 12. Makes application of this Act prospective.

SECTION 13. Effective date: January 1, 2008.