

BILL ANALYSIS

Senate Research Center
87R18506 BEE-F

H.B. 2803
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Jurisprudence
5/18/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Hundreds of illicit massage businesses, which are fronts for prostitution, human trafficking, and organized crime, operate throughout the State of Texas. Although these businesses are undeniably prevalent in large cities, they are increasingly infiltrating smaller cities and suburbs. Illicit massage businesses attract violent crime and tarnish the reputation of legitimate massage therapy by using a needed and respected service as cover for criminal acts. H.B. 2803 seeks to address this issue and protect legitimate tenants by allowing commercial tenants to terminate their lease if the person or entity leasing to them also leases to an unlicensed massage establishment within the same multiunit commercial property.

H.B. 2803 amends current law relating to a commercial landlord's or tenant's remedies regarding certain unlawful activities in a multiunit commercial property.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 93.013(a), Property Code, as follows:

(a) Provides that, notwithstanding a provision in a lease to the contrary, a tenant's right of possession terminates and the landlord has a right to recover possession of the leased premises if the tenant is using the premises or allowing the premises to be used for the purposes of:

(1) and (2) makes nonsubstantive changes to these subdivisions; or

(3) operating, maintaining, or advertising a massage establishment, as defined by Section 455.001 (Definitions), Occupations Code, that is not in compliance with:

(A) Chapter 455 (Massage Therapy), Occupations Code; or

(B) an applicable local ordinance relating to the licensing or regulation of a massage establishment.

SECTION 2. Amends Chapter 93, Property Code, by adding Section 93.014, as follows:

Sec. 93.014. RIGHT TO VACATE DUE TO CERTAIN UNLAWFUL ACTIVITIES IN MULTIUNIT COMMERCIAL PROPERTY. (a) Defines "multiunit commercial property" and "unlawful activity" for Section 93.014.

(b) Provides that a landlord of a multiunit commercial property is in breach of a lease with a tenant if:

(1) the tenant reasonably believes that another tenant in the same multiunit commercial property is engaging in an unlawful activity;

(2) the complaining tenant makes a report regarding the activity described by Subdivision (1) to a local law enforcement agency with jurisdiction over the unlawful activity;

(3) the complaining tenant gives the landlord written notice of the offending tenant's engagement in the unlawful activity, including:

(A) a statement of the basis for the complaining tenant's reasonable belief that the offending tenant is engaging in the activity; and

(B) a copy of the report described by Subdivision (2); and

(4) the landlord does not file a forcible detainer suit against the offending tenant under Section 93.013 (Certain Unlawful Uses of Premises; Termination of Tenant's Right of Possession) before the 30th day after the date the notice is given.

(c) Authorizes the tenant, notwithstanding a provision of the lease to the contrary, if a landlord is in breach of a tenant's lease under Subsection (b), to:

(1) terminate the tenant's rights and obligations under the lease;

(2) vacate the leased premises; and

(3) avoid liability for future rent and any other sums due under the lease for terminating the lease and vacating the premises before the end of the lease term.

(d) Provides that Section 93.014 does not prohibit a landlord from pursuing a civil action against a complaining tenant for any amount due under the complaining tenant's lease if, after the landlord investigates the offending tenant, the landlord determines the complaining tenant's belief regarding the unlawful activity, as stated in the written notice under Subsection (b)(3), was not reasonable.

(e) Provides that, in a civil action described by Subsection (d), there is a rebuttable presumption that a complaining tenant's belief regarding an offending tenant's engagement in unlawful activity is reasonable if the complaining tenant gave the landlord the notice required by Subsection (b)(3).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2021.