

BILL ANALYSIS

C.S.S.B. 1367
By: West
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have expressed concerns about current law relating to certain obligations of and limitations on residential landlords. Specifically, the parties point to situations in which a tenant is not required to pay a security deposit and a landlord is not required to notify a tenant of any charges or damages on surrender of the premises. The parties contend that changes need to be made to the law with respect to certain landlord liability, the handling of a tenant's security deposit, and the notification of a tenant of damages and charges on surrender of the premises because tenants are sometimes unaware the landlord is claiming the tenant owes damages until viewing the tenant's credit report. C.S.S.B. 1367 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1367 amends the Property Code to expand a residential landlord's authority to deliver a notice to vacate prior to filing an eviction suit by affixing the notice to the outside of the main entry door if a premises has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises to leave the notice to vacate on the inside of the main entry door to include if the landlord reasonably believes that harm to any person would result from personal delivery to the tenant or a person residing at the premises or from personal delivery to the premises by affixing the notice to the inside of the main entry door. The bill requires the notice securely affixed to the outside of the main entry door under those circumstances to be in a sealed envelope on which specified information is written and requires the landlord, not later than 5 p.m. of the same day, to deposit in the mail in the same county in which the premises in question is located a copy of the notice to the tenant. The bill establishes that notice to vacate given by such means is considered delivered on the date the envelope is affixed to the outside of the door and is deposited in the mail, regardless of the date the notice is received.

C.S.S.B. 1367 changes the amount to which a tenant is entitled if a landlord or the landlord's agent wilfully violates statutory provisions relating to a residential landlord's lien from one month's rent or \$500, whichever is greater, less any amount for which the tenant is liable to the sum of one month's rent and \$1,000, less any amount for which the tenant is liable. The bill prohibits a tenant's right to a jury trial in an action brought under statutory provisions governing residential tenancies from being waived in a lease or other written agreement and includes

delivery by a form of mail, other than certified or registered mail, that allows tracking of delivery from the U.S. Postal Service or a private delivery service among the delivery methods by which a notice to repair or remedy a condition may be given by a tenant to a landlord that triggers the landlord's liability to the tenant regarding the landlord's duty to repair and remedy.

C.S.S.B. 1367 removes a statutory provision making a person who no longer owns an interest in a rental premises liable for a security deposit received while the person was the owner until the new owner delivers to the tenant a signed statement acknowledging that the new owner has received and is responsible for the tenant's security deposit and instead makes the person who no longer owns an interest in the rental premises liable to the new owner for a security deposit received while the person was the owner until the new owner has received the deposit or has assumed the liability for the deposit, unless otherwise specified by the parties in a written contract. The bill requires the new owner to deliver to the tenant a signed statement acknowledging that the new owner has acquired the property and is responsible for the tenant's security deposit and specifying the exact dollar amount of the deposit.

C.S.S.B. 1367 requires a landlord, if a security deposit was not required by a residential lease and the tenant is liable for damages and charges on surrender of the premises, to notify the tenant in writing of the landlord's claim for damages and charges on or before the date the landlord reports the claim to a consumer reporting agency or third-party debt collector, unless the tenant has not given the landlord the tenant's forwarding address. The bill establishes that a landlord forfeits the right to collect damages and charges from the tenant if the landlord does not provide the tenant such notice and establishes that forfeiture of the right to collect damages and charges from the tenant is the exclusive remedy for the failure to provide the proper notice to the tenant.

C.S.S.B. 1367 changes from a sliding door pin lock to a sliding door handle latch the type of sliding door security device a landlord is required to install, as an alternative to a sliding door security bar, at a tenant's request made at any time and at the tenant's expense if the door is an exterior sliding glass door without either such a handle latch or security bar. The bill changes one of the grounds on which a landlord's defense to liability for a failure to install or rekey certain security devices is established from the ground that the tenant has not fully paid all rent then due from the tenant on the date the tenant requests the installation of a specific security device on an exterior door that does not have the specific device to the ground that the tenant has not fully paid all rent then due from the tenant on the date the tenant requests the immediate installation of a security device that otherwise is required to be installed without necessity of a tenant's request.

EFFECTIVE DATE

January 1, 2016.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1367 may differ from the engrossed in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 24.005, Property Code, is amended by amending Subsection (f) and adding Subsections (f-1) and (f-2) to read as follows:

(f) Except as provided by Subsection (f-1), ~~the~~ [The] notice to vacate shall be given in person or by mail at the premises in

question. Notice in person may be by personal delivery to the tenant or any person residing at the premises who is 16 years of age or older or personal delivery to the premises and affixing the notice to the inside of the main entry door. Notice by mail may be by regular mail, by registered mail, or by certified mail, return receipt requested, to the premises in question. ~~[If the dwelling has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises to leave the notice to vacate on the inside of the main entry door, the landlord may securely affix the notice on the outside of the main entry door.]~~

(f-1) As an alternative to the procedures of Subsection (f), a landlord may deliver the notice to vacate by securely affixing to the outside of the main entry door a sealed envelope that contains the notice and on which is written the tenant's name, address, and in all capital letters, the words "IMPORTANT DOCUMENT" or substantially similar language and, not later than 5 p.m. of the same day, depositing in the mail in the same county in which the premises in question is located a copy of the notice to the tenant if:

(1) the premises has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises to affix the notice to vacate to the inside of the main entry door; or

(2) the landlord reasonably believes that harm to any person would result from personal delivery to the tenant or a person residing at the premises or from personal delivery to the premises by affixing the notice to the inside of the main entry door.

(f-2) Notice to vacate under Subsection (f-1) is considered delivered on the date the envelope is affixed to the outside of the door and is deposited in the mail, regardless of the date the notice is received.

SECTION 1. Section 54.046, Property Code, is amended.

SECTION 2. Section 92.006, Property Code, is amended by adding Subsection (h) to read as follows:

(h) A tenant's right to a jury trial in an action brought under this chapter may not

SECTION 2. Same as engrossed version.

SECTION 3. Section 92.006, Property Code, is amended by adding Subsection (h) to read as follows:

(h) A tenant's right to a jury trial in an action brought under this chapter may not be

be waived.

SECTION 3. Section 92.056(b), Property Code, is amended.

SECTION 4. Section 92.105, Property Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) If the owner's interest in the premises is terminated by sale, assignment, death, appointment of a receiver, bankruptcy, or otherwise, the new owner is liable for the return of security deposits according to this subchapter from the date title to the premises is acquired~~[, regardless of whether notice is given to the tenant under Subsection (b) of this section].~~

(b) The ~~[person who no longer owns an interest in the rental premises remains liable for a security deposit received while the person was the owner until the]~~ new owner shall deliver ~~[delivers]~~ to the tenant a signed statement acknowledging that the new owner has acquired the property ~~[received]~~ and is responsible for the tenant's security deposit and specifying the exact dollar amount of the deposit.

(b-1) The person who no longer owns an interest in the rental premises is liable for a security deposit received while the person was the owner until the new owner has received the deposit or has assumed the liability for the deposit, unless otherwise specified by the parties in a written contract.

SECTION 5. Subchapter C, Chapter 92, Property Code, is amended.

No equivalent provision.

waived in a lease or other written agreement.

SECTION 4. Same as engrossed version.

SECTION 5. Same as engrossed version.

SECTION 6. Same as engrossed version.

SECTION 7. Section 92.157(a), Property Code, is amended to read as follows:

(a) At a tenant's request made at any time, a landlord, at the tenant's expense, shall install:

(1) a keyed dead bolt on an exterior door if the door has:

(A) a doorknob lock but not a keyed dead bolt; or

(B) a keyless bolting device but not a keyed dead bolt or doorknob lock; and

(2) a sliding door handle latch ~~[pin lock]~~ or sliding door security bar if the door is an exterior sliding glass door without a sliding door handle latch ~~[pin lock]~~ or sliding door

No equivalent provision.

SECTION 6. The changes in law made by this Act apply only to a residential lease agreement entered into on or after the effective date of this Act. A residential lease agreement entered into before the effective date of this Act is governed by the law applicable to the agreement immediately before that date, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect January 1, 2016.

security bar.

SECTION 8. Section 92.1641, Property Code, is amended to read as follows:

Sec. 92.1641. LANDLORD'S DEFENSES RELATING TO INSTALLING OR REKEYING CERTAIN SECURITY DEVICES. The landlord has a defense to liability under Section 92.164 if:

(1) the tenant has not fully paid all rent then due from the tenant on the date the tenant gives a request under ~~[Subsection (a) of]~~ Section 92.157(c) ~~[92.157]~~ or the notice required by Section 92.164; or

(2) on the date the tenant terminates the lease or files suit the tenant has not fully paid costs requested by the landlord and authorized by Section 92.162.

SECTION 9. Same as engrossed version.

SECTION 10. Same as engrossed version.