

BILL ANALYSIS

C.S.H.B. 970
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns that renters in areas susceptible to flooding may be unaware of the risk of their home flooding. It has been noted that while landlords are required to provide prospective tenants notification of certain hazards such as the use of lead paint, there is no similar requirement with respect to a flood hazard, which is no less dangerous and consequential. C.S.H.B. 970 seeks to address these concerns by requiring a landlord to provide certain notices regarding flooding to a residential tenant before execution of a lease.

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.H.B. 970 amends the Property Code to require a landlord to provide to a residential tenant a written notice indicating whether the landlord is or is not aware that the leased dwelling is located in a 100-year floodplain and informing the tenant that:

- the tenant should assume the dwelling is in a 100-year floodplain if no indication is made;
- the dwelling may still be susceptible to flooding even if the dwelling is not in a 100-year floodplain;
- FEMA maintains a flood map on its website that is searchable by address, at no cost, to determine if a dwelling is located in a flood hazard area;
- most tenant insurance policies do not cover damages or loss incurred in a flood; and
- the tenant should seek insurance coverage that would cover losses caused by a flood.

C.S.H.B. 970 establishes that a landlord is not required to disclose on the notice that the landlord is aware that a dwelling is located in a 100-year floodplain if the elevation of the dwelling is raised above the 100-year floodplain flood levels in accordance with federal regulations. The bill requires a landlord who knows that flooding has damaged any portion of a dwelling at least once during the five-year period immediately preceding the effective date of the lease to provide a written notice to a tenant indicating whether the landlord is or is not aware that the leased dwelling has flooded at least once within that period. A notice required by the bill must be included in a separate written document given to the tenant before execution of the lease. The bill defines "100-year floodplain" and "flooding" for purposes of its provisions.

C.S.H.B. 970 authorizes a tenant, if a landlord violates the bill's provisions and the tenant suffers a substantial loss or damage to the tenant's personal property as a result of flooding, to terminate the lease by giving a written notice of termination to the landlord not later than the 30th day after the date the loss or damage occurred. The lease termination is effective when the tenant surrenders possession of the dwelling. The bill requires the landlord, not later than the 30th day after the effective date of the lease termination, to refund to the tenant all rent or other amounts paid in advance under the lease for any period after that effective date. The bill's provisions do not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the date the lease was terminated by the tenant.

EFFECTIVE DATE

January 1, 2020.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 970 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include requirements for a landlord or landlord's agent to provide certain written notice to a prospective tenant if a leased dwelling, manufactured home lot, or commercial property or certain related buildings, parking areas, or storage areas are located in a flood zone, as defined in the original version, and to provide the written notice to a current tenant if such a dwelling, lot, property, building, or area is located in an area designated by FEMA as a flood zone during the term of the lease.

The substitute includes requirements for a landlord to provide to a residential tenant, before execution of a lease, a written notice indicating whether the landlord is or is not aware that the leased dwelling is located in a 100-year floodplain and providing certain other flood-related information and, if applicable, a written notice regarding the landlord's awareness of flooding of the leased dwelling that occurred during the five-year period immediately preceding the lease's effective date.

The substitute revises the authorization for a tenant to terminate the lease if a landlord violates the bill's provisions and includes a requirement for the landlord to refund to the tenant all rent or other amounts paid in advance under the lease for any period after the effective date of the lease termination. The substitute does not include a provision entitling the tenant to recover certain damages, attorney's fees, and court costs from the landlord if the tenant suffers loss of or damage to the tenant's personal property as a result of a flood.

The substitute includes definitions for "100-year floodplain" and "flooding."

The substitute changes the bill's effective date from September 1, 2019, to January 1, 2020.