

SUBJECT: Use of force in serving writ of reentry on a commercial landlord

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — Brimer, Dukes, Corte, J. Davis, George, Solomons, Woolley  
0 nays  
2 absent — Elkins, Giddings

SENATE VOTE: On final passage, March 19 — 29-0

WITNESSES: (*On House companion bill, HB 2545:*)  
For — Glen Copeland  
  
Against — None

BACKGROUND: A writ of reentry entitles a commercial tenant locked out unlawfully by a landlord to immediate and temporary possession of the premises, pending a final hearing on the tenant's sworn complaint for reentry. Under Property Code, sec. 93.003(d), the writ must be served on the landlord "in the same manner as" a writ of possession in a forcible detainer action involving property ownership disputes

DIGEST: SB 591 would authorize a sheriff or constable who serves a writ of reentry on a commercial landlord to use reasonable force in executing the writ.  
  
This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS SAY: SB 591 would clear up confusion over whether reasonable force may or may not be used when serving a writ of reentry on a commercial landlord. Use of force is allowed both for a writ of possession in a forcible detainer action involving property ownership disputes and for a writ of reentry allowing a residential tenant to enter and recover property if unlawfully locked out. Current law does not authorize explicitly the use of force in serving writs of

reentry for commercial tenants. As a result, local practices have been inconsistent in serving these writs.

Clarifying this matter would ensure that commercial tenants could recover their possessions quickly. Otherwise, a commercial tenant could be locked out of a property illegally for weeks, disrupting the tenant's business.

OPPONENTS  
SAY:

No apparent opposition.