

SUBJECT: Landlord charging a tenant who defaults lease to re-key premises

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 5 ayes — Giddings, Elkins, Bohac, Vo, Zedler

0 nays

1 present not voting — Taylor

3 absent — Bailey, Martinez, Solomons

WITNESSES: For — Julie Potts, Texas Association of Realtors; Ron Walker, Texas Association of Realtors

Against — None

BACKGROUND: For purposes of Property Code, ch. 92, which governs residential tenancies, a "security device" means a doorknob lock, door viewer, keyed dead bolt, keyless bolting device, sliding door handle latch, sliding door pin lock, sliding door security bar, or window latch in a dwelling. The law specifies that a dwelling under this chapter must have one (or more) of these security devices on each exterior window or exterior door of the dwelling.

Sec. 92.162 declares that a landlord may not require a tenant to pay for repair or replacement of a security device due to normal wear and tear. A landlord may not require a tenant to pay for other repairs or replacements of a security device with the exception of misuse or damage by the tenant, tenant's family member, an occupant, or a guest. When a landlord is authorized to charge a tenant for repairing, installing, changing, or re-keying a security device, the landlord may not require the tenant to pay more than the total cost charged by a third-party contractor for material, labor, taxes, and extra keys. If the landlord's employees perform the work, the charge may include a reasonable amount for overhead but may not include a profit to the landlord.

DIGEST: HB 1578 would amend Property Code, sec. 92.162, to allow a landlord to re-key a security device at the tenant's expense if:

- the tenant was in default under a written lease;
- the tenant had vacated the leased premises; and
- the lease authorized the landlord to charge the tenant to re-key a security device if the tenant was in default under the lease.

The 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, 2005.

**SUPPORTERS
SAY:**

HB 1578 would permit a landlord to charge the cost of re-keying or replacing security devices only when a tenant breached the lease, the tenant had vacated the premises, and the lease authorized the landlord to charge the tenant under those circumstances. If these three conditions were not met, the landlord could not charge re-keying costs to a tenant.

Current law requires a residential landlord to install certain security devices, including doorknob locks, window latches, and deadbolts, on exterior doors and windows. The landlord must re-key the exterior locks each time there is a turnover in renters.

If a tenant breaches a lease and vacates the property, the landlord must re-key the security devices (lock, latch, deadbolt) before another tenant moves in, but the landlord may not charge the tenant in default the cost of re-keying or replacing the security devices. Replacement or re-keying of locks can become costly—as much as \$100 per lock—depending on the number of doors and windows on the premises. Even though the landlord is responsible for the expense, at some point the landlord or property manager would need to offset expenses.

Current law prevents a landlord from requiring the tenant to pay more than the actual cost for material, labor, taxes, and extra keys. If a landlord's employee performed the work, the charge could include reasonable amount for overhead but could not include a profit to the landlord.

The bill would be a way for landlords to recoup expenses on tenants in default under a lease and no longer on the premises. HB 1578 would allow landlords to deduct from the security deposit the expenses

associated with replacing or re-keying security devices, which current law prohibits.

OPPONENTS
SAY:

There's not a compelling need for HB 1578. Changing locks or re-keying is not that expensive, especially for multi-unit apartments. Customarily, an employee of the landlord switches out cylinders in the locks, so the property is re-keyed without purchasing a new lock or cylinder. Admittedly, re-keying or replacing latches could be more expensive for single-family houses that tend to have more doors and windows, but it does not seem costly or troublesome enough to justify this bill.

OTHER
OPPONENTS
SAY:

HB 1578 could specify that the landlord was authorized to charge the tenant "a reasonable amount" for re-keying. The bill should not create an opportunity for a landlord who was possibly disgruntled because a tenant defaulted on a lease to attach a punitive charge to re-keying a lock or latch.