

SUBJECT: Requiring notice of certain residential rental eligibility requirements

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 5 ayes — Giddings, Elkins, Darby, Solomons, Zedler

0 nays

4 absent — Bailey, Bohac, Castro, Martinez

SENATE VOTE: On final passage, April 1) — 31-0, on Local and Uncontested Calendar

WITNESSES: For — David Mintz, Texas Apartment Association; (*Registered, but did not testify*: Robert Doggett, Texas Low Income Housing Information Service; Daniel Gonzalez, Texas Association of Realtors)

Against — None

DIGEST: SB 709 would add Labor Code, sec. 92.3515 to require that a landlord make available to a rental applicant printed notice of the landlord's tenant selection criteria and the grounds for which the application could be denied. Grounds for denial could include, but would not be limited to, the applicant's:

- criminal history;
- previous rental history;
- current income;
- credit history; or
- failure to provide accurate or complete information on the application form.

If the landlord made the notice available as provided, the applicant would sign an acknowledgment indicating notice. If the acknowledgment was not signed, there would be a rebuttable presumption that the notice was not made available to the applicant.

CSSB 709 would specify that the acknowledgment could be part of the rental application if the notice was underlined or in bold print. The bill

would maintain that the specified acknowledgment would have to include a statement substantively similar to the following:

“Signing this acknowledgment indicates that you have had the opportunity to review the landlord’s tenant selection criteria. The tenant selection criteria may include factors such as criminal history, credit history, current income, and rental history. If you do not meet the selection criteria, or if you provide inaccurate or incomplete information, your application may be rejected and your application fee will not be refunded.”

If the landlord rejected an applicant and the landlord had not made the required notice available, the landlord would have to return the application fee and any application deposit. If an applicant requested the landlord to mail a refund of the application fee, the landlord would have to mail the refund check to the applicant’s furnished address.

The bill would take effect September 1, 2007, and would apply only to a rental application on or after that date.

**SUPPORTERS
SAY:**

CSSB 709 would require landlords to provide notice of the grounds for denial of a rental application. Current law does not require landlords to disclose grounds for denial of an application for an apartment before accepting application fees. As a result, many individuals who are unaware of the grounds that lead to rejection end up losing money on application fees. CSSB 709 would protect vulnerable applicants who did not qualify to live in a particular rental unit from excessive fees charged and wrongly retained by unscrupulous landlords.

**OPPONENTS
SAY:**

CSSB 709 would impose unnecessary requirements on landlords who rent only one or two properties. The bill would better accommodate small property owners if had a provision clearly making the landlord’s duty conditional upon requiring a rental application and fee.

NOTES:

The House committee substitute differs from the Senate-passed version in that it would require the landlord to make available, rather than provide, to the applicant the notice of selection criteria. The substitute also would include current income, credit history, and failure to provide accurate or complete information on the application form.

A related bill, HB 3101 by Anchia, which would set out residential tenants’ rights and remedies, passed the House by 120-24 on May 4 and was reported favorably, as substituted, by the Senate Business and

Commerce Committee on May 18 and recommended for the Local and Uncontested Calendar.