

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1678
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Jurisprudence
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Committee Report (Substituted)

DIGEST

Currently, Texas law provides regulations regarding repairs by a landlord to property, repairs to the property by a tenant and subsequent deduction from rent for the repairs, and termination of a lease by a landlord. Under current law, the total cost of repairs by a tenant cannot exceed one month's rent. This remedy is almost never used because health and safety related repairs are often more costly than one month's rent. Additionally, a landlord can give three days notice to a tenant to vacate and file suit within three days to force the tenant out regardless of whether the tenant has or is willing to correct the lease violation. This bill will simplify the process of tenants getting basic repairs that affect health and safety, create more tools for neighborhoods faced with rundown complexes that lower property values, and require notification of tenants of any change in ownership or management after it happens.

PURPOSE

As proposed, C.S.S.B. 1678 provides regulations regarding landlords and tenants of residential property.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 24.004, Property Code, to provide that a justice court in the precinct in which the real property is located has jurisdiction in eviction suits. Provides that eviction suits include forcible entry and detainer and forcible detainer suits.

SECTION 2. Amends Section 24.005, Property Code, by amending Subsection (f) and adding Subsection (i), to authorize a landlord, if before the notice to vacate is given as required by this section the landlord has given a written notice or reminder to the tenant that rent is due and unpaid, to include in the notice to vacate required by this section a demand that the tenant pay the delinquent rent or vacate the premises by the date and time stated in the notice. Makes nonsubstantive changes.

SECTION 3. Amends Section 24.006(a), Property Code, to make conforming changes.

SECTION 4. Amends Section 24.0061, Property Code, to require the court to notify a tenant in writing of a default judgment for possession by sending a copy of the judgment to the premises by first class mail not later than 48 hours after the entry of the judgment. Requires the writ of possession to order the officer executing the writ to post a written notice printed on poster board meeting certain requirements on the exterior front door of the rental unit notifying the tenant of certain information, and order the officer executing the writ, when the writ is executed, to deliver possession of the premises to the landlord. Makes conforming changes.

SECTION 5. Amends Section 24.007, Property Code, to make a conforming change.

SECTION 6. Amends Section 24.008, Property Code, to make a conforming change.

SECTION 7. Amends Section 24.011, Property Code, to make conforming changes.

SECTION 8. Amends Chapter 91, Property Code, by adding Section 91.006, as follows:

Sec. 91.006. LANDLORD'S DUTY TO MITIGATE DAMAGES. Provides that a landlord has a duty to mitigate damages if a tenant abandons leased premises in violation of the lease. Provides that a provision of a lease that purports to waive a right or to exempt a landlord from a liability or duty under this section is void.

SECTION 9. Amends Section 92.009(d), Property Code, to authorize a sheriff or constable to use reasonable force in executing a writ of reentry under this section.

SECTION 10. Amends Section 92.056, Property Code, to provide that the landlord's liability under this subsection is subject to Section 92.052(b) regarding conditions that are caused by the tenant and Section 92.054 regarding conditions that are insured casualties. Provides that a landlord is liable to a tenant if certain conditions are met. Provides that, for purposes of Subsection (b)(4) or (5), a landlord is considered to have received the tenant's notice when the landlord or the landlord's agent or employee has actually received the notice or when the United States Postal Service has attempted to deliver the notice to the landlord. Sets forth provisions regarding reasonable time to repair or remedy a condition. Deletes existing text regarding notice.

SECTION 11. Amends Sections 92.0561(a)-(d), Property Code, to prohibit the tenant's deduction for the cost of the repair or remedy from exceeding the amount of one month's rent or \$500, whichever is greater, under the lease. Authorizes repairs under this section to be made only if the tenant has given notice to the landlord as required by Section 92.056(b)(1), and, if required, a subsequent notice under Section 92.056(b)(3), and at least one of those notices states that the tenant intends to repair or remedy the condition. Makes conforming changes.

SECTION 12. (a) Effective date: September 1, 1997, except as provided by Subsection (b).

(b) Effective date for SECTIONS 10 and 11: January 1, 1998.

SECTION 13. (a) Makes application of Section 91.006, Property Code, as added by this Act, prospective.

(b) Makes application of Sections 92.056 and 92.0561, as amended by this Act, prospective to January 1, 1998.

SECTION 14. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 24.004, Property Code, to set forth the jurisdiction of eviction suits and to provide that eviction suits include forcible entry and detainer and forcible detainer suits.

SECTION 2.

Amends Section 24.005, Property Code, to set forth regulations regarding a notice to vacate when the rent is due and unpaid. Makes nonsubstantive changes.

SECTION 3.

Amends Section 24.006, Property Code, to make conforming changes.

SECTION 4.

Amends Section 24.0061, Property Code, formerly designated as SECTION 6, to make conforming and nonsubstantive changes.

SECTIONS 5-7.

Amends Sections 24.007, 24.008, and 24.011, Property Code, to make conforming changes.

SECTION 8.

Adds Section 91.006, Property Code, to set forth a landlord's duty to mitigate damages.

SECTION 9.

Amends Section 92.009, Property Code, to authorize a constable or sheriff to use reasonable force in executing a writ of reentry under this section.

SECTION 10.

Amends Section 92.056, Property Code, formerly designated as SECTION 1, to set forth a landlord's liability regarding certain conditions. Sets forth notice requirements.

SECTION 11.

Amends Section 92.0561, Property Code, to authorize a tenant to make a repair if it does not exceed one month's rent or \$500, whichever is greater, rather than if it does not exceed two months' rent. Reinserts text that was struck regarding local housing, building, or health officials. Makes conforming and nonsubstantive changes.

SECTION 12.

Sets forth the effective date of various SECTIONS of this Act.

SECTION 13.

Makes application of various sections of the Property Code, as added or amended by this Act, prospective.