

BILL ANALYSIS

Senate Research Center

H.B. 557
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DIGEST AND PURPOSE

Currently, Texas has fewer laws and regulations governing the relationship between a landlord and a tenant of a manufactured home community (community) than there are for the rental of other types of properties. As a result, many Texas tenants of a community endure unfair rental practices, including surprise rent increases, unfair or retaliatory evictions, harassment of tenant organizations, and month-to-month rentals without a lease agreement. H.B. 557 requires landlords to provide tenants with a lease agreement and a current copy of community rules, requires landlords to maintain a healthy, safe, and functional community, prohibits landlords from entering tenants' homes without specified justifiable reasons, prohibits landlords from interfering with tenants' meetings, and sets forth acceptable grounds for eviction.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

H.B. 557 amends the Property Code relating to the relationship between a landlord and a tenant who leases property in a manufactured home community (community) for the purpose of situating a manufactured home or recreational vehicle on the property. The bill does not apply to the relationship between a tenant who leases a manufactured home from the landlord, a landlord and an employee or agent of the landlord, a landlord who leases property in the community and a tenant who leases the property for the placement of personal property to be used for human habitation, excluding a manufactured home or a recreational vehicle (Sec. 94.002).

The bill authorizes a landlord to adopt community rules that are not arbitrary or capricious and to add to or amend such rules, but requires that a landlord give the tenant at least 90 days to comply with the rule if the change will require the tenant to expend funds in excess of \$25 (Sec. 94.008). At the time a landlord receives a prospective tenant's application, the landlord is required to provide a copy of the proposed lease agreement, any community rules, and a separate disclosure statement (Sec. 94.051). A landlord is required to offer the tenant a lease agreement with an initial lease term of at least six months, unless the tenant and landlord agree on a different lease term. The bill provides that the landlord must provide notice to the tenant, regardless of the term of the lease, not later than the 60th day before the date of the expiration of the lease if the landlord does not renew the lease (Sec. 94.052).

The bill specifies the information a lease agreement is required to contain and requires the landlord to provide the tenant with a copy of the lease agreement and a current copy of the community rules. The bill provides that any illegal or unconscionable provision in a lease is void but that the invalidity of a provision does not affect other provisions of the lease that can be given effect without reference to the invalid provision. A landlord may prohibit a tenant from assigning a lease agreement or subleasing the leased premises if the prohibition is included in the lease agreement (Secs. 94.053 and 94.057). The bill requires a tenant to disclose to the landlord before the lease agreement is signed the name and address of any person holding a lien on the tenant's manufactured home. The bill sets forth provisions

regarding notice of a lease renewal (Secs. 94.054 and 94.055).

The bill prohibits a landlord from entering a tenant's home except in a case of emergency, a tenant's abandonment of the home, or when the tenant is present and consents or provides prior written consent for a specified date and time. The tenant is authorized to revoke the consent through written notification without a penalty (Sec. 94.004). The tenant is required to notify the landlord in writing of any change in the tenant's primary residence. If the tenant makes the request at the signing of the lease agreement or renewal, the landlord is required to mail all notices required by the lease agreement to the tenant's primary residence. Provisions regarding notice by mail do not apply if the notice is hand delivered to and received by a person 16 years of age or older occupying the leased premises (Sec. 94.009).

A landlord is authorized to terminate the lease agreement and evict a tenant if the tenant fails to timely pay rent or other amounts due under the lease that in the aggregate equal the amount of at least one month's rent, the landlord notifies the tenant in writing that the payment is delinquent, and the tenant has not paid the delinquent payment in full before the 10th day after the date the tenant receives the notice. A landlord is also authorized to terminate the lease agreement and evict the tenant if the tenant violates a lease provision, including a community rule incorporated in the lease (Secs. 94.205 and 94.206). A landlord is required to refund all or a portion of the security deposit unless the tenant fails to fulfill the lease agreement or there are damages or charges for which the tenant is legally liable. The bill sets forth provisions regarding the liability of a landlord for such a deposit and for procedures after the cessation of a community owner's interest in the premises (Secs. 94.103- 94.109).

The landlord is required to maintain a healthy, safe, and functional community and to make a diligent effort to repair or remedy conditions materially affecting the health or safety of a tenant, except for a condition present in or on a tenant's manufactured home. The bill provides that the tenant has the burden of proof in a judicial action to enforce a right resulting from the landlord's failure to repair such a condition, except that the landlord has the burden of proof if the landlord does not provide a written explanation for delay in performing the repair. The bill sets forth provisions regarding a landlord's liability for maintenance and repair requirements and provides that if the landlord is liable to a tenant, the tenant is authorized to remedy the condition and deduct the cost from a subsequent rent payment unless the cost exceeds \$500 or the cost of a month's rent, whichever is greater.

The bill provides that repairs based on a tenant's notice must be made by a company, contractor, or repairman that advertises in a telephone directory or newspaper in the manufactured home community's municipality or county or adjacent county (Secs. 94.152-94.156). A landlord is prohibited, within six months after the date a tenant exercises a remedy, from retaliating against a tenant who exercises a remedy granted by the lease agreement or by law, requests a repair, or complains to a relevant authority of the condition of the community (Sec. 94.251). The bill sets forth provisions for a tenant to contract for repair work and to deduct the costs of the repairs from subsequent rent payments (Sec. 94.157).

The bill sets forth provisions regarding a tenant's judicial remedies if a landlord is liable for maintenance and repair requirements. The bill also sets forth provisions regarding a landlord's remedy if a tenant withholds rent, causes repairs to be performed, or makes rent deductions for repairs in violation of the bill (Secs. 94.158 and 94.159).

The bill provides that each common area facility must be available to tenants (Sec. 94.005). A landlord is prohibited from interfering with tenants' meetings related to manufactured home living. Any limitation on meetings must be included in the community rules (Sec. 94.006). The bill specifies penalties for a landlord who violates these provisions, and for a tenant who files a suit in bad faith or for purposes of harassment. A specific remedy provided by this bill supersedes the general remedy provided for a tenant and is in addition to any other remedy provided by law (Secs. 94.301- 94.303).

The bill provides that the maximum amount a landlord may recover as damages for a tenant's early termination of a lease agreement is an amount equal to the amount of rent that remains outstanding for

the term of the lease and any other amounts owed for the remainder of the lease under the terms of the lease, except that the maximum amount is the equal of one month's rent if the tenant's manufactured home lot is reoccupied before the 21st day after surrender. A landlord has a duty to mitigate damages if a tenant vacates the lot before the end of the lease term (Secs. 94.201 and 94.202).

The bill authorizes the owner of a manufactured home to sell a home located on the leased premises if the purchaser is approved in writing by the landlord and a lease agreement is signed by the purchaser. The bill prohibits a landlord from requiring the owner to contract with the landlord to act as an agent or broker in selling the home or requiring the owner to pay a commission or fee from the sale of the home if the owner of the manufactured home has not agreed in writing (Sec. 94.252).

The bill also sets forth provisions regarding a landlord's disclosure of information about ownership and management, eviction procedures, a landlord's authorization to terminate a lease for a change in land use, cash payment procedures, the filing of a law suit against a landlord, as it relates to the authorized agent for service of process, nonretaliation, a tenant's remedies for retaliation by a landlord, and invalid complaints (Secs. 94.010, 94.203, 94.204, 94.007, 94.011, and 94.253-94.255).

A provision in a lease agreement or a rule in the community that purports to waive a right or to exempt a landlord or a tenant from a duty or from liability in this bill is void (Sec. 94.003).

Effective date: April 1, 2002.

Application of this Act is prospective.