

## **BILL ANALYSIS**

Senate Research Center

S.B. 1414  
By: Hancock  
Business & Commerce  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2007, during the 80th legislative session, H.B. 3101, by Representative Anchia, added Section 92.019, Property Code, to prohibit landlords from charging exorbitant late fees. Section 92.019 provides that a landlord who charges a late fee must include notice of the late fee in a written lease, the fee must be a reasonable estimate of uncertain damages to the landlord that are incapable of precise calculation and result from the late payment of rent, and there must be at least a one-day grace period after the rent was due. Ambiguous language in Section 92.019 needs to be clarified to create a clearer standard for landlords in order to better protect tenants.

S.B. 1414 clarifies Section 92.019 by removing vague language and capping the amount an apartment owner may charge a tenant a late fee at \$150 or up to 10 percent of the tenant's monthly rent, whichever is greater. The bill retains important consumer protections by requiring late fees to be reasonable and maintains penalties against landlords who violate the law. S.B. 1414 leaves in place current law requiring notice of late fees in the lease and a grace period of at least one full day after the original due date. (Original Author's/Sponsor's Statement of Intent)

S.B. 1414 amends current law relating to fees regarding a residential tenant's failure to timely pay rent.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 92.019, Property Code, by amending Subsections (a), (b), and (c) and adding Subsection (a-1), as follows:

(a) Prohibits a landlord from collecting from, rather than charging, a tenant a late fee for failing to pay any portion of the tenant's rent, rather than failing to pay rent, unless:

(1) makes no changes to this subdivision;

(2) the fee is reasonable, rather than the fee is a reasonable estimate of uncertain damages to the landlord that are incapable of precise calculation and result from late payment of rent; and

(3) any portion of the tenant's rent has remained unpaid two full days, rather than the rent has remained unpaid one full day, after the date the rent was originally due.

(a-1) Provides that, for purposes of this section (Late Payment of Rent; Fees), a late fee is considered reasonable if:

(1) the late fee is not more than:

(A) 12 percent of the amount of rent for the rental period under the lease for a dwelling located in a structure that contains not more than four dwelling units; or

(B) 10 percent of the amount of rent for the rental period under the lease for a dwelling located in a structure that contains more than four dwelling units; or

(2) the late fee is more than the applicable amount under Subdivision (1), but not more than uncertain damages to the landlord related to the late payment of rent, including direct or indirect expenses, direct or indirect costs, or overhead associated with the collection of late payment.

(b) Authorizes a late fee under this section to include an initial fee and a daily fee for each day any portion of the tenant's rent continues to remain unpaid, and provides that the combined fees are considered a single late fee for purposes of this section, rather than authorizing a late fee under this section to include an initial fee for each day the rent continues to remain unpaid.

(c) Provides that a landlord who violates this section is liable to the tenant for an amount equal to the sum of \$100, three times the amount of the late fee collected, rather than charged, in violation of this section, and the tenant's reasonable attorney's fees.

SECTION 2. Amends Subchapter A, Chapter 92, Property Code, is amended by adding Section 92.0191 to read as follows:

Sec. 92.0191. STATEMENT OF LATE FEES. Authorizes a tenant to request that the landlord provide to the tenant a written statement of whether the tenant owes a late fee to the landlord and, if so, the amount of the late fee. Requires the landlord, on request of the tenant, to provide the statement to the tenant by any established means regularly used for written communication between the landlord and the tenant. Provides that a landlord's failure to respond does not affect the tenant's liability for any late fee owed to the landlord.

SECTION 3. Makes application of Section 92.019, Property Code, as amended by this Act, prospective

SECTION 4. Effective date: September 1, 2019.