

BILL ANALYSIS

Senate Research Center
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S.B. 921
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Business & Commerce
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 921 clarifies the amount of money a residential landlord may charge a tenant for late payment of rent.

Current law has a vague standard for determining the appropriate amount for a late fee. This statutory uncertainty has led to multiple lawsuits attempting to answer the question about what constitutes a reasonable late fee.

Under S.B. 921, a residential landlord may charge the tenant an initial late fee of up to eight percent of a tenant's monthly rent, with an additional late fee charge of up to two percent for each additional day the rent is late.

As proposed, S.B. 921 amends current law relating to a late fee for failing to pay rent under a residential lease.

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) and (e) and adding Subsection (a-1), as follows:

(a) Authorizes a late fee to include an initial fee and a daily fee for each day the rent continues to remain unpaid.

(a-1) Creates this subsection from existing text. Prohibits a landlord from charging a tenant a late fee for failing to pay rent unless:

(1) makes no changes to this subdivision;

(2) the initial fee does not exceed eight percent of one month's rent and each subsequent daily fee does not exceed two percent of one month's rent, rather than unless 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) makes no changes to this subdivision.

(e) Makes a conforming change and makes no further changes to this subsection.

SECTION 2. Repealer: Section 92.019(b) (relating to authorization for a late fee to include an initial fee and a daily fee for each day the rent continues to remain unpaid).

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

SECTION 4. Effective date: January 1, 2018.