

BILL ANALYSIS

Senate Research Center
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S.B. 1414
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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.

As proposed, 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 Subsections (a-1) and (a-2), 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 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 rent has remained unpaid one full day after the date the rent was originally due.

(a-1) Authorizes a landlord, to determine the fee described by Subsection (a)(2), to consider any direct or indirect expenses related to the tenant's late payment incurred by the landlord, including direct or indirect costs, expenses, or overhead associated with the landlord's process established to collect late payments.

(a-2) Prohibits a landlord, notwithstanding Subsection (a)(2), if a tenant's dwelling is located in a building that contains five or more dwelling units, from collecting from the

tenant a late fee for a rental period that is more than the greater of \$150 or 10 percent of the amount of the rent for the rental period.

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

(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. Makes application of 92.019, Property Code, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2019.