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FISCAL IMPACT REPORT

SPONSOR HJCS **ORIGINAL DATE** 03/03/21 **HB** 111/HJCS/aHfI#1/aSH
LAST UPDATED 03/14/21 **HB** PAC/ec
SHORT TITLE Housing Discrimination Changes **SB** _____
ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
AOC		(Indeterminate, but moderate, see fiscal impact)			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Offices of the Courts (AOC)
 Human Services Department (HSD)
 Department of Workforce Solutions (WSD)

SUMMARY

Synopsis of SHPAC Amendment

The Senate Health and Public Affairs Committee amendment would allow a late fee of no more than 10 percent for that portion of rent paid by a resident for a dwelling unit and also allows required notices from an owner to be hand-delivered or sent by email in addition to by mail.

Synopsis of HfI Amendment

House Floor Amendment #1 to the House Judiciary Committee substitute for House Bill 111 strikes the proposed creation of a State Housing Council.

Synopsis of Original Bill

The House Judiciary Committee substitute for House Bill 111 proposes to amend the Uniform Owner-Resident Relations Act, Section 47-8-1 *et. seq.*, the statute governing residential rental agreements.

Sections 1 and 2 cite the Uniform Owner-Resident Relations Act and add for each cash payment made by a resident, an owner shall provide a receipt with amount, date, and resident's name.

Section 3 clarifies if actual cause exists for retaining the deposit for nonpayment of legitimate charges, the owner shall provide the resident a written statement of the deductions and the balance of the deposit within 30 days of the termination date of the agreement. If the written statement and payment are mailed but returned undelivered, or if the last known address is the vacated dwelling, the owner shall serve at least one additional notice if an alternative address has been provided. If the owner fails to provide such statement, they forfeit the right to withhold the deposit for any charge, other than the minimum periodic payment due under the lease for a dwelling accrued through the date of termination or resident departure, whichever is later. Owners who retain a deposit unlawfully are liable for twice the amount improperly withheld.

Section 4 provides that if the resident fails to pay rent within 11 days (previously 3) after written notice of nonpayment, the owner may terminate the agreement and the resident shall deliver possession of the dwelling or seek restitution in court in response to the owner's action. If the owner prevails, the resident may deposit the judgment amount with the court within 21 days (previously 3 days) in order for the judgment to be vacated and petition dismissed. If the resident does not pay the judgment, the court shall issue the writ of restitution without further order.

Section 5 and 6 do not allow an owner to retaliate against a resident in compliance with the rental agreement and who is not in violation of the act. A resident may prove retaliation if the owner brings or threatens to bring an action for possession, decreases services, increases rent, refuses to renew an agreement or serves notice of termination, and the resident has, within the previous 6 months, complained to a utility company about a mechanical device, utility service or owner-supplied appliances or requested a reasonable accommodation for a disability. This section requires the resident to prove the owner retaliated and gives the owner opportunity to respond.

Section 7 allows an owner to dispute a claim of retaliation asserted by the tenant under certain conditions. This section further provides that any right of an owner to bring an action for possession is subject to the federal Fair Housing Act and other housing and human rights laws.

Section 8 states a trial of an owner's action for possession shall be not less than 14 days (from 7 days) to no more than 21 days (from 10 days) after summons. This section encourages the court to maintain a resource list of nonprofit legal service providers and state and local entities that provide rental assistance to qualifying applicants. This list is to be provided to the plaintiff and served by the plaintiff along with the summons and copy of the complaint upon the defendant.

Section 9 allows the court to issue a judgment of ordering the resident to vacate the premises by a specified date; provided that the resident shall be allowed not less than 15 days or more than 20 days, and may be allowed more time or less time depending upon circumstances. If at any time, as determined by the court, a resident pays the amount owed, the petition for writ of restitution shall be dismissed, the judgment vacated, and the tenancy continued. If either party feels aggrieved and appeals, no writ of restitution shall be executed after the filing date of the appeal.

Section 10 provides for an automatic stay of a writ of restitution upon the filing of an appeal. It also prescribes time periods for payment if the resident is the appellant and if an owner refuses or is unavailable to accept a rent payment. The resident may pay the amount to be held by the court.

Section 11 adds a new section to provide that an owner shall not refuse to renew or terminate a rental agreement that expires during, or 30 days after, a declaration of a public health emergency or disaster issued by the governor or the Legislature in an affected region, if the owner's motivation for seeking to terminate or not renew a tenancy is nonpayment of rent. Resident

occupancy will be month to month unless the parties agree to a longer term. An exception is allowed if the owner or an immediate family member needs the property as a primary residence.

Section 12 creates a state housing council, its duties, and composition and includes reports to the LFC and any other appropriate interim committees no later than November 1 of each year.

Section 13 includes an emergency clause that this act take effect immediately.

FISCAL IMPLICATIONS

AOC noted that the sections of the substitute having the most significant fiscal impact on the judiciary are amendments regarding timing of notices, timing of hearings, the ability to cure post-filing of a petition, procedural changes to how writs are issued, and retaliation. However, some provisions have the potential to assist the judiciary in addressing some of the projected increase in evictions due to the Covid-19 pandemic, while other provisions have the potential to require an increase in court time, court staff time, and training for judges and court personnel.

A federal moratorium on evictions is in place until March 31, 2021; however, a federal court in Texas found the federal moratorium unconstitutional on February 26, 2021.

SIGNIFICANT ISSUES

The substitute is an attempt to address housing challenges created by the Covid-19 pandemic.

Notice of Non-Payment of Rent

The substitute requires owners to give residents at least 11 days notice in non-payment of rent situations before filing a court action (from 3 days).

Hearing Timelines/Judgment and Post-Judgment Issues

The substitute requires hearings on Petitions for Restitution (eviction cases) be held between 10 and 21 days after serving summons (from between 7 and 10 days); allows a court to continue an eviction hearing for up to 7 days upon a showing of good cause; requires courts to maintain a resource list and provide that list to the parties to the extent practicable; and requires a judgment of restitution to allow a resident between 15 and 20 days to vacate (from between 3 and 7 days).

Owner Retaliation

The substitute states that a “resident may prove retaliation” under certain circumstances as outlined in the amendment, and creates and defines an “order of proof” for claims of retaliation.

Ability to Cure

The substitute allows a resident to either pay the owner or the court an amount to be held in escrow for distribution by the court to the owner.

Renewal of rental agreements during state of emergency

The substitute prohibits owners from refusing to renew or terminating rental agreements during a public health emergency and a moratorium prohibiting or staying writs of restitution is in effect.

Appeal

The substitute stays a writ of restitution when there has been an appeal by the resident in all cases and provides relief for owners if the resident does not pay the rent pending appeal.

ADMINISTRATIVE IMPLICATIONS

AOC further noted there are no judiciary representatives on the proposed State Housing Council. Given that the council's charge includes reviewing laws and making recommendations about laws, it may be helpful to have a representative from the judiciary to give input about the way in which housing issues (including foreclosure and eviction) play out in court.

Participants on the State Housing Council will need to provide staff and contribute to reports.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to Civil Rights, and Equal Opportunity Act.

Relates to House Bill 113, No Discrimination Based on Military Status

OTHER SUBSTANTIVE ISSUES

As of 2020, 18 states have statutes that prohibit discrimination based on income sources.

ALTERNATIVES

HSD suggests utilizing its existing Housing Leadership Group to expand the scope and participation by stakeholders to address issues of discrimination and make recommendations.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without changes, the courts would continue to be limited to the timelines regarding scheduling hearings in the current statute, which does not allow significant flexibility in these cases.

QUESTIONS

Does the bill interfere with owners selling an occupied rental during such an emergency?

AHO/rl/al