

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 686

S. P. 222

In Senate, March 2, 1977

Referred to the Committee on Judiciary. Sent down for concurrence and 2,000 copies ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Troitzky of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Regulate Security Deposits on Residential Rental Units.

Be it enacted by the People of the State of Maine, as follows:

10 MRSA c. 957 is enacted to read:

CHAPTER 957

SECURITY DEPOSITS ON RESIDENTIAL RENTAL UNITS

§ 9251. Definitions

As used in this Part, unless the context otherwise indicates, the following words shall have the following meanings.

1. Normal wear and tear. "Normal wear and tear" means that deterioration which occurs, based upon the use for which the rental unit is intended, without negligence, carelessness, accident or abuse of the premises or equipment or chattels by the tenant or members of his household or their invitees or guests.

2. Security deposit. "Security deposit" means any advance or deposit of money, regardless of its denomination, the primary function of which is to secure the performance of a rental agreement for residential premises or any part thereof.

§ 9252. Maximum security deposit

No lessor of a dwelling intended for human habitation shall require a security deposit equivalent to more than one month's rent.

§ 9253. Interest on security deposit

A lessor who holds a security deposit pursuant to this chapter for a period of one year or longer from the commencement of the term of the tenancy shall, beginning with the first day of the tenancy, pay interest at the rate of 5% per year, payable to the tenant at the end of the tenancy.

§ 9254. Escrow account

Any lessor receiving security deposits as defined in section 9251, subsection 2, from any lessee for occupancy of premises within this State shall deposit the funds in an escrow account in a banking institution in this State.

§ 9255. Return of the security deposit

1. Return of the deposit; time; retention. A landlord shall, within 21 days after the termination of a tenancy or lease or surrender and acceptance of the premises, whichever occurs last, return to the tenant the full security deposit deposited with the landlord by the tenant, unless a written lease agreement specifies a longer period of time, not to exceed 30 days. No security deposit shall be retained to cover normal wear and tear. In the event that actual cause exists for retaining any portion of the security deposit, the landlord shall provide the tenant with a written statement itemizing the exact reasons for the retention of any portion of the security deposit. The statement shall be accompanied by a payment of the difference between any sum deposited and the amount retained. The landlord is deemed to have complied with this section by mailing the statement and any payment required to the last known address of the tenant. Nothing in this section shall preclude the landlord from retaining the security deposit for nonpayment of rent or nonpayment of utility charges.

2. Penalty. The failure of a landlord to provide a written statement or to return the security deposit within the required time specified in subsection 1 shall forfeit the landlord's right to withhold any portion of the security deposit under this section or to bring suit against the tenant for damages to the premises.

§ 9256. Wrongful retention; damages

1. Notice to landlord of intention to bring suit; presumption on failure to return deposit. Should the landlord fail to return the security deposit and give the itemized statement within the time provided in section 9255, the tenant shall give notice to the landlord of his intention to file legal proceedings a minimum of 7 days prior to filing the action. Should the landlord fail to return the entire security deposit within the 7-day period, it shall be presumed that the landlord is willfully and wrongly retaining the security deposit.

2. Double damages for willful retention. The willful retention of a security deposit in violation of this chapter shall render a landlord liable for double the amount of that portion of the security deposit wrongfully withheld from the tenant, together with reasonable attorneys' fees and court costs.

3. Burden of proof. In any court action brought by a tenant under this section, the landlord shall bear the burden of proving that his withholding of

the security deposit, or any portion of it, was not wrongful.

§ 9257. Transfer of security deposit

1. Landlord's cessation of interests in the dwelling unit. Upon cessation of his interests in the dwelling unit, whether by sale, assignment, death, appointment of a receiver or otherwise, the person in possession of the security deposit, including, but not limited to, the landlord, his agent or his executor shall, within a reasonable time:

A. Transfer the funds, or any remainder after lawful deductions under this section, to the landlord's successor in interest and notify the tenant by mail of that transfer and of the transferee's name and address; or

B. Return the funds, or any remainder after lawful deductions under this section, to the tenant.

2. Release from liability following compliance. Upon compliance with this section, the person in possession of the security deposit shall be relieved of further liability, and the transferee, in relation to those funds, shall be deemed to have all of the rights and obligations of a landlord holding the funds as a security deposit.

§ 9258. Waiver of provisions

Any provision, whether oral or written, in or pertaining to a rental agreement whereby any provision of this chapter for the benefit of a tenant or members of its household is waived shall be deemed to be against public policy and shall be void.

§ 9259. Exemptions

Any of the provisions of this section relative to security deposits, which may be in conflict with the terms of a mortgage guaranteed by the United States or any authority created under the laws thereof, shall not apply to security deposits held by a lessor who appears as the mortgagor in such a mortgage.

STATEMENT OF FACT

The purpose of this bill is to require residential landlords to put security deposits in escrow accounts and pay interest on any security deposit held for more than one year. It also provides for an orderly procedure for the refund or retention of security deposits.