

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1813

S. P. 519

In Senate, May 26, 1977

Reported by Six Members from Committee on Judiciary in Report "B" and printed under Joint Rules No. 2.

MAY M. ROSS, Secretary

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:

14 MRSA c. 710-A is enacted to read:

CHAPTER 710-A

SECURITY DEPOSITS ON RESIDENTIAL RENTAL UNITS

§ 6031. 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, regardless of its denomination, of money, the primary function of which is to secure the performance of a rental agreement for residential premises or any part thereof.

§ 6032. Maximum security deposit

No lessor of a dwelling intended for human habitation shall require a security deposit equivalent to more than the rent for 2 months.

§ 6033. Interest on security deposit

A landlord 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.

§ 6034. Return of the security deposit

1. Normal wear and tear. A security deposit or any portion of a security deposit shall not be retained for the purpose of paying for normal wear and tear.

2. Return; time; retention. A landlord shall return to a tenant the full security deposit deposited with the landlord by the tenant or, if there is actual cause for retaining the security deposit or any portion of it, the landlord shall provide the tenant with a written statement itemizing the reasons for the retention of the security deposit or any portion of it:

A. In the case of a written rental agreement, within the time, not to exceed 30 days, stated in the agreement; and

B. In the case of a tenancy at will, within 21 days after the termination of the tenancy or the surrender and acceptance of the premises, whichever occurs later.

The written statement itemizing the reasons for the retention of any portion of the security deposit shall be accompanied by a full payment of the difference between the security deposit 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 which the tenant was required to pay directly to the landlord.

3. Penalty. If a landlord fails to provide a written statement or to return the security deposit within the time specified in subsection 2, the landlord shall forfeit his right to withhold any portion of the security deposit.

§ 6035. Wrongful retention; damages

1. Notice to landlord of intention to bring suit; presumption or failure to return deposit. Should the landlord fail to return the security deposit and provide the itemized statement within the time periods in section 6034, the tenant shall give notice to the landlord of his intention to bring a legal action no less than 7 days prior to commencing 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 attorney's 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.

§ 6036. Transfer of security deposit

1. Landlord's termination of interests in the dwelling unit. Upon termination of his interest 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 deduction under this chapter, 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.

§ 6037. 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.

§ 6038. Exemptions

1. Federally guaranteed mortgages. Any of the provisions of this chapter 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.

2. Owner-occupied buildings of 5 or fewer units. This chapter shall not apply to any tenancy for a dwelling unit which is part of a structure containing no more than 5 dwelling units, one of which is occupied by the landlord.

STATEMENT OF FACT

The purpose of this new draft, as well as that of the original bill, is to require residential landlords to pay interest on any security deposit held for more than one year. The new draft removes the requirement that the deposits be held in escrow accounts.

The new draft also provides that the amount of the security deposit may be no more than the equivalent of 2 months' rent instead of one month's, as in the original bill.

The new draft, as does the original bill, provides for an orderly procedure for the refund of these deposits.

The new draft adds an exemption. The requirements would not apply to units in buildings of 5 or fewer units, one of which is owner-occupied.