

Security Deposit Law Changes Give Tenants More Protection

The New Jersey security deposit law (The Rent Security Deposit Act, *N.J.S.A. 46:8-19 et seq.*) was recently amended. *The changes took effect on January 1, 2004. They provide increased protection for tenants' security deposits.* The changes also correct problems that had developed since the last time the law was changed.

Here is a list of the most important changes.

- A landlord had been allowed to keep one percent of the annual interest earned on a tenant's deposit. This is no longer permitted. All of the interest earned is now the property of the tenant.
- The law has always required that a security deposit be kept in an account that earns interest. (A landlord who owns more than 10 apartments or houses must keep the security deposits in a bank account that pays higher interest than a regular savings account.) Before the law was changed, the landlord could pay the interest to the tenant, or use it to pay part of the tenant's rent, or just let the interest build up in the account. Now, the landlord has only two choices: each year the landlord must either pay the interest earned during the prior year to the tenant, or use it to pay part of the tenant's rent due.
- Before the law was changed, it only required a landlord to give the tenant a written notice telling the tenant the name and address of the bank where the tenant's security had been

deposited, and how much money was deposited. A new change to the security deposit law says that landlords must also tell the tenant in what kind of account the security money has been placed, and how much interest the account pays.

- The security deposit law also says that this notice has to be given to the tenant in writing within 30 days after the tenant gives the deposit to the landlord. The changes say that the landlord must give the notice not just within 30 days of getting it from the tenant, but also every year at the time the landlord pays the interest to the tenant. A new landlord must also give the notice within 30 days of buying the property. The law also says that the notice must be given to the tenant within 30 days after the landlord has moved the deposit from one bank to another, or from one bank account to another (unless the change in the bank or account takes place less than two months before the annual interest payment). Finally, the new law says that *all* landlords must give their tenants a new notice telling them where the deposit is, how much it is, and how much interest it is earning, by the end of January 2004.
- If a landlord does not:
 - put the security money in a proper bank account or
 - give a proper written notice to the tenant every time the law requires (except for the annual notice),

then the tenant can give a written notice to the landlord telling the landlord to use the whole deposit (plus 7% interest per year) to pay the tenant's rent. The money may be used to pay future rent or any back rent the tenant may

owe. (But be sure to read the next paragraph, which talks about a special situation.) Once a tenant legally tells the landlord to use the security deposit to pay the rent, the landlord cannot ask the tenant for another deposit as long as the tenant lives in the apartment or house.

- If a landlord does not:
 - obey the law that says he must pay the interest on the security deposit every year (or use it to pay part of the tenant's rent), and
 - give a notice to the tenant every year,

the tenant can use the deposit to pay past or future rent due. But before the tenant can do this, the tenant must give or send the landlord a letter giving the landlord 30 days to pay the interest or give the annual notice.

- Changes to the law make it clear that a new owner must get the tenant's security deposit, plus interest, from the old owner when the apartment or house is sold. The law plainly says that the *new* owner is responsible to each tenant for the full amount of the tenant's deposit, plus interest, *whether or not the new owner actually gets the deposits from the old owner.*
- The security deposit law now says that a landlord can't take any money from the tenant's security deposit—for repairs, rent due, or anything else—while the tenant still lives in the apartment or house.
- Sometimes a landlord will try to collect more security money from a tenant at the time the landlord raises the tenant's rent, in order to have the security keep pace with the rent increase. The

changed law says that the most additional security money that a landlord can get in any one year is 10% of the current deposit.

- Finally, the new law says that a tenant who has to go to Small Claims Court to try to get back a security deposit from a landlord can sue for up to \$5,000.

For more information on this topic, see Chapter 3 of [Tenants' Rights in New Jersey](#) .