

46:8-19

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 46:8-19

(Security
deposits--interests)

LAWS OF: 1990

CHAPTER: 100

Bill No: A2595

Sponsor(s): Salmon

Date Introduced: Pre-filed

Committee: Assembly: Consumer Affairs

Senate: Labor

Amended during passage: Yes

Amendments during passage
denoted by asterisks.

Date of Passage: Assembly: March 8, 1990

Senate: October 11, 1990

Date of Approval: October, 18, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/SLJ

1 AN ACT to amend "An act concerning leasehold estates in
2 relation to deposits to secure performance of leases, and
3 supplementing chapter 8 of Title 46 of the Revised Statutes,"
4 approved January 8, 1968 (P.L.1967, c.265).

5

6 BE IT ENACTED by the Senate and General Assembly of the
7 State of New Jersey:

8 1. Section 1 of P.L.1967, c.265 (C.46:8-19) is amended to read
9 as follows:

10 ~~1. Whenever money or other form of security shall be~~
11 ~~deposited or advanced on a contract, lease or license agreement~~
12 ~~for the use or rental of real property as security for performance~~
13 ~~of the contract, lease or agreement or to be applied to payments~~
14 ~~upon such contract, lease or agreement when due, such money or~~
15 ~~other form of security, until repaid or so applied including the~~
16 ~~tenant's portion of the interest [earned] or earnings accumulated~~
17 ~~thereon as hereinafter provided, shall continue to be the property~~
18 ~~of the person making such deposit or advance and shall be held in~~
19 ~~trust by the person with whom such deposit or advance shall be~~
20 ~~made for the use in accordance with the terms of the contract,~~
21 ~~lease or agreement and shall not be mingled with the personal~~
22 ~~property or become an asset of the person receiving the same.~~

23 The person receiving money so deposited or advanced shall:

24 a. (1) Invest that money in shares of an insured money market
25 fund established by an investment company based in this State
26 and registered under the "Investment Company Act of 1940," 54
27 Stat. 789 (15 U. S. C. § 80a-1 et seq.) whose shares are registered
28 under the "Securities Act of 1933," 48 Stat. 74 (15 U. S. C. § 77a.
29 et seq.) and the only investments of which fund are instruments
30 maturing in one year or less, or (2) deposit that money in a State
31 or federally chartered bank, savings bank or savings and loan
32 association in this State insured by an agency of the federal
33 government in an account bearing a variable rate of interest,
34 which shall be established at least quarterly, which is similar to
35 the average rate of interest on active interest-bearing money
36 market transaction accounts paid by the bank or association
37 under 12 C. F. R. Part 1204.108, or equal to similar accounts of
38 an investment company described in paragraph (1) of this

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Assembly ACO committee amendments adopted February 8, 1990.

1 subsection, less an amount not to exceed 1% per annum of the
2 amount so invested or deposited for the costs of servicing and
3 processing the account.

4 This subsection shall not apply to persons receiving money for
5 less than 10 rental units except where required by the
6 Commissioner of Banking by rule or regulation. The commissioner
7 shall apply the provisions of this subsection to some or all persons
8 receiving money for less than 10 rental units where the
9 commissioner finds that it is practicable to deposit or invest the
10 money received with an investment company or State or federally
11 chartered bank, savings bank or savings and loan association in
12 accordance with this subsection. Except as expressly provided
13 herein, nothing in this subsection shall affect or modify the rights
14 or obligations of persons receiving money for rental premises or
15 units, tenants, licensees or contractees under any other law.

16 b. Persons not required to invest or deposit money in
17 accordance with subsection a. of this section shall deposit such
18 money in a [banking institution] State or federally chartered
19 bank, savings bank or savings and loan association in this State
20 insured by an agency of the federal government in an account
21 bearing interest at the rate currently paid by such institutions
22 and associations on time or savings deposits.

23 The person investing the security deposit pursuant to
24 subsection a. or b. of this section shall thereupon notify in writing
25 each of the persons making such security deposit or advance,
26 giving the name and address of the [banking institution]
27 investment company, State or federally chartered bank, savings
28 bank or savings and loan association in which the deposit or
29 investment of security money is made, and the amount of such
30 deposit or investment.

31 All of the money so deposited or advanced may be deposited or
32 invested by the person receiving the same in one interest-bearing
33 or dividend yielding account as long as he complies with all the
34 other requirements of this act.

35 The person receiving money so deposited or so advanced shall
36 be entitled to receive as [administration] administrative
37 expenses, a sum equivalent to 1% per annum thereon or 12.5% of
38 the aggregate interest yield on the security deposit, whichever is
39 greater, less the amount of any service fee charged by an
40 investment company, a State or federally chartered bank, savings
41 bank or savings and loan association for money deposited pursuant
42 to this section, which shall be in lieu of all other administrative
43 and custodial expenses. The balance of the interest or earnings
44 paid thereon by the investment company, State or federally
45 chartered bank, savings bank or savings and loan association,
46 hereinafter referred to as tenant's portion, shall belong to the
47 person making the deposit or advance and shall be permitted to
48 compound to the benefit of the tenant, or be paid to the tenant in

1 cash, or be credited toward the payment of rent due on the
2 renewal or anniversary of said tenant's lease.

3 In the event the person receiving a security deposit fails to
4 invest or deposit the security money in the manner required under
5 this section or notify the tenant of the name and address of the
6 investment company, State or federally chartered bank, savings
7 bank or savings and loan association in which the deposit or
8 investment of such security is made, and the amount thereof,
9 within 30 days after receipt of same from the tenant, or within
10 30 days after the effective date of this ¹[1985] 1990¹ amendatory
11 act, whichever occurs later, the tenant may give written notice
12 to the person receiving the same that such security money be
13 applied on account of rent payment or payments due or to
14 become due from the tenant, and thereafter the tenant shall be
15 without obligation to make any further security deposit and the
16 person receiving the money so deposited shall not be entitled to
17 make further demand for a security deposit.

18 The provisions of this section requiring that the security
19 advanced be deposited or invested in a money market fund, or in
20 an interest bearing account in a State or federally chartered
21 bank, savings bank or savings and loan association shall not apply
22 to any security advanced on a contract, lease or license
23 agreement for the seasonal use or rental of real property. For
24 purposes of this paragraph "seasonal use or rental" means use or
25 rental for a term of not more than ¹[110] 60¹ consecutive days
26 for residential purposes by a person having a permanent place of
27 residence elsewhere. "Seasonal use or rental" does not mean use
28 or rental of living quarters for seasonal, temporary or migrant
29 farm workers in connection with any work or place where work is
30 being performed. The landlord shall have the burden of proving
31 that the use or rental of the residential property is seasonal.

32 (cf: P.L.1985, c.42 s.1)

33 2. This act shall take effect immediately.

34 HOUSING AND CONSTRUCTION

35
36
37
38 Exempts landlords of certain rentals from maintaining security
39 deposits in interest bearing account.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2595

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 8, 1990

The Assembly Consumer Affairs Committee favorably reports Assembly Bill No. 2595 with committee amendments.

Assembly Bill No. 2595 amends section 1 of P.L.1967, c.265 (C.46:8-19) to exempt landlords of seasonal rentals from the current statutory requirement that they deposit each tenant's security deposit in an interest bearing account.

Under current law, every landlord, except the landlords of owner-occupied properties having two or less rental units where the tenant has failed to give the landlord a 30 day notice invoking the provisions of this security deposit law, is required to deposit each tenant's security deposit in an interest bearing account.

This bill, as amended by the committee, exempts the landlords of seasonal rental properties from that requirement. For the purposes of this exemption, the bill defines "seasonal use or rental" as the use or rental of a unit for residential purposes for a term of not more than 60 consecutive days by a person having a permanent place of residence elsewhere. Specifically excluded from that exemption, however, are the rentals of living quarters by seasonal, temporary or migrant farm workers. Landlords renting living quarters to such workers would continue to be required to deposit their security deposits in interest bearing accounts.

The committee amended the bill to change the definition of "seasonal rental or use," reducing the required term of the rental in order to qualify for the exemption from 110 consecutive days to 60 consecutive days. In discussing the bill, the committee concurred with the sponsor's primary objective of relieving the landlords of seasonal properties of the administrative headache of attempting to deposit the security deposits of short-term renters in interest bearing accounts. The committee also understood that the service fees charged by institutions holding such short-term deposits, in many instances, exceed the amount of interest generated by the deposit. The committee did believe, however, that in those instances involving leases of 60 or more days, the current requirement that the landlord deposit a renter's security deposit in an interest bearing account imposed no undue administrative burden on the landlord. The committee further believed that the security deposits of renters entering into seasonal leases of more than 60 days would generate noticeable interest and that those individuals deserved to be paid that interest.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 2595

STATE OF NEW JERSEY

DATED: SEPTEMBER 24, 1990

The Senate Labor, Industry and Professions Committee reports favorably Assembly Bill No. 2595 [1R].

This bill exempts landlords of vacation or seasonal rentals from the current statutory requirement that they deposit or invest each tenant's security deposit in a money market fund or interest bearing bank account.

The bill defines "seasonal use or rental" as the use or rental of a unit for residential purposes for a term of not more than 60 consecutive days by a person having a permanent place of residence elsewhere. Rentals of living quarters by seasonal, temporary or migrant farm workers are specifically excluded from this definition and are therefore still subject to the security deposit law.

The landlord has the burden of proving that the use or rental of the residential property is seasonal.

1 on the renewal or anniversary of said tenant's lease.

2 In the event the person receiving a security deposit fails to
3 invest or deposit the security money in the manner required under
4 this section or notify the tenant of the name and address of the
5 investment company, State or federally chartered bank, savings
6 bank or savings and loan association in which the deposit or
7 investment of such security is made, and the amount thereof,
8 within 30 days after receipt of same from the tenant, or within
9 30 days after the effective date of this 1985 amendatory act,
10 whichever occurs later, the tenant may give written notice to the
11 person receiving the same that such security money be applied on
12 account of rent payment or payments due or to become due from
13 the tenant, and thereafter the tenant shall be without obligation
14 to make any further security deposit and the person receiving the
15 money so deposited shall not be entitled to make further demand
16 for a security deposit.

17 The provisions of this section requiring that the security
18 advanced be deposited or invested in a money market fund, or in
19 an interest bearing account in a State or federally chartered
20 bank, savings bank or savings and loan association shall not apply
21 to any security advanced on a contract, lease or license
22 agreement for the seasonal use or rental of real property. For
23 purposes of this paragraph "seasonal use or rental" means use or
24 rental for a term of not more than 110 consecutive days for
25 residential purposes by a person having a permanent place of
26 residence elsewhere. "Seasonal use or rental" does not mean use
27 or rental of living quarters for seasonal, temporary or migrant
28 farm workers in connection with any work or place where work is
29 being performed. The landlord shall have the burden of proving
30 that the use or rental of the residential property is seasonal.
31 (cf: P.L.1985, c.42 s.1)

32 2. This act shall take effect immediately.

33 34 35 STATEMENT

36
37 This bill exempts landlords of seasonal rentals from the
38 requirement of investing or depositing tenants' security deposits
39 in money market funds or interest bearing accounts. Seasonal
40 rentals are defined by the bill as those rentals with a term of not
41 more than 110 consecutive days, except for the living quarters of
42 seasonal, temporary or migrant farm workers.

43 44 45 HOUSING AND CONSTRUCTION

46
47 Exempts landlords of certain rentals from maintaining security
48 deposits in interest bearing account.