

46: 8-19 and 46: 8-20

LEGISLATIVE HISTORY CHECKLIST

(Tenants security deposit--
extend automatically following
sale of building)

WJSA 46:8-19 and 46:8-20

LAWS OF 1979

CHAPTER 28

Bill No. A1126

Sponsor(s) Schwartz and Baer

Date Introduced April 20, 1978

Committee: Assembly Commerce, Industry & Professions

Senate Law, Public Safety & Defense

Amended during passage Yes

~~x~~ Amendments during
passage denoted
by asterisks

Date of Passage: Assembly May 11, 1978

Senate Jan. 16, 1979

Date of approval Feb. 22, 1979

Following statements are attached if available:

Sponsor statement Yes ~~xx~~

Committee Statement: Assembly Yes ~~xx~~

Senate ~~Yes~~ No

Fiscal Note ~~Yes~~ No

Veto message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

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CHAPTER 28

2-22-79

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ASSEMBLY, No. 1126

STATE OF NEW JERSEY

INTRODUCED APRIL 20, 1978

By Assemblymen SCHWARTZ and BAER

Referred to Committee on Commerce, Industry and Professions

AN ACT concerning the return of security deposits and amending

“An act concerning leasehold estates in relation to deposits to secure performance of leases, and supplementing chapter 8 of Title 46 of the Revised Statutes,” approved January 8, 1968 (P. L. 1967, c. 265).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

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

3 1. ***[Whenever]*** *Whenever* money or other form of security
4 shall be deposited or advanced on a contract, lease or license agree-
5 ment for the use or rental of real property as security for perform-
6 ance of the contract, lease or agreement or to be applied to payments
7 upon such contract, lease or agreement when due, such money or
8 other form of security, until repaid or so applied including the ten-
9 ant's portion of the interest earned thereon as hereinafter provided,
10 shall continue to be the property of the person making such deposit
11 or advance and shall be held in trust by the person with whom such
12 deposit or advance shall be made for the use in accordance with the
13 terms of the contract, lease or agreement and shall not be mingled
14 with the personal property or become an asset of the person
15 receiving the same. The person receiving money so deposited or
16 advanced shall deposit such money in a banking institution or
17 savings and loan association in this State insured by an agency of
18 the Federal Government in an account bearing interest at the rate
19 currently paid by such institutions and associations on time or
20 savings deposits and shall thereupon notify in writing each of the
21 persons making such security deposit or advance, giving the name

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

22 and address of the banking institution in which the deposit of
23 security money is made, and the amount of such deposit.

24 All of the money so deposited or advanced may be deposited by
25 the person receiving the same in one interest-bearing account as
26 long as he complies with all the other requirements of this act.

27 The person receiving money so deposited or so advanced shall be
28 entitled to receive as administration expenses, a sum equivalent to
29 1% per annum thereon which shall be in lieu of all other adminis-
30 trative and custodial expenses. The balance of the interest paid
31 thereon by such banking institution or savings and loan association,
32 hereinafter referred to as tenant's portion, shall belong to the
33 person making the deposit or advance and shall be credited toward
34 the payment of rent due on the renewal or anniversary of said
35 tenant's lease.

36 In the event the person receiving a security deposit fails to notify
37 the tenant of the name and address of the banking institution or
38 savings and loan association in which the deposit of such security is
39 made, and the amount thereof, within 30 days after receipt of same
40 from the tenant, the tenant may give written notice to the person
41 receiving the same that such security money be applied on account
42 of rent payment or payments due or to become due from the tenant,
43 and thereafter the tenant shall be without obligation to make any
44 further security deposit [during the term of his lease] and the
45 person receiving the money so deposited shall not be entitled to
46 make further demand for a security deposit **[except following the*
47 *expiration of the term of any written and signed lease]*.*

1 2. Section 2 of P. L. 1967, c. 265 (C. 46:8-20) is amended to read
2 as follows:

3 2. Any person, whether the owner or lessee of the property
4 leased, who or which has or hereafter shall have received from a
5 tenant or licensee a sum of money as a deposit or advance of rental
6 as security for the full performance by such tenant or licensee of
7 the terms of his contract, lease or license agreement, or who or
8 which has or shall have received the same from a former owner
9 or lessee, shall, upon conveying such property or assigning his or
10 its lease to another, or upon the conveyance of such property to
11 another person by a court in an action to foreclose a mortgage
12 thereon, at the time of the delivery of the deed or instrument or
13 assignment, or within 5 days thereafter, or in the event of the
14 insolvency or bankruptcy of the person receiving said deposit,
15 within 5 days after the making and entry of an order of the court
16 discharging the receiver or trustee, deal with the security deposit
17 [in one of the three following ways:

18 (a) Turn **】** *by turning* over to his or its grantee or assignee, or
 19 to the purchaser at the foreclosure sale the sum so deposited, plus
 20 the tenant's portion of the interest earned thereon, and notify the
 21 tenant or licensee by registered or certified mail of such turning
 22 over and the name and address of such grantee, assignee or
 23 purchaser.

24 **【(b) Return** the sum so deposited, plus the tenant's portion of
 25 the interest earned thereon, to such tenant or licensee, less any
 26 charges expended in accordance with the terms of a contract, lease,
 27 or agreement or to his appointee or designee duly authorized in
 28 writing by such tenant to receive the same.

29 (c) Retain the sum so deposited, plus the tenant's portion of the
 30 interest earned thereon, and notify the tenant or licensee by regis-
 31 tered or certified mail of such conveyance or assignment and the
 32 name and address of the grantee, assignee, or purchaser at the
 33 foreclosure sale, as the case may be, and of the fact that he or it, as
 34 such former landlord, has retained the sum so deposited, plus the
 35 tenant's portion of the interest earned thereon. **】**

1 *3. Section 8 of P. L. 1967, c. 265 (C. 46:8-26) is amended to
 2 read as follows:

3 8. The provisions of this act shall apply to all rental premises or
 4 units used for dwelling purposes except owner-occupied premises
 5 with not more than two rental units *where the tenant has failed*
 6 *to provide 30 days written notice to the landlord invoking the pro-*
 7 *visions of this act.**

1 ***【3.】*** *4.* This act shall take effect immediately

18 (a) Turn] *by turning* over to his or its grantee or assignee, or
 19 to the purchaser at the foreclosure sale the sum so deposited, plus
 20 the tenant's portion of the interest earned thereon, and notify the
 21 tenant or licensee by registered or certified mail of such turning
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 25 the interest earned thereon, to such tenant or licensee, less any
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 30 interest earned thereon, and notify the tenant or licensee by regis-
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 32 name and address of the grantee, assignee, or purchaser at the
 33 foreclosure sale, as the case may be, and of the fact that he or it, as
 34 such former landlord, has retained the sum so deposited, plus the
 35 tenant's portion of the interest earned thereon.]

1 3. This act shall take effect immediately.

STATEMENT

This legislation improves the working of the tenant security deposit law following the sale of a building. Previously tenants frequently had difficulty in learning what happened to their security deposit and in having it continue in force. This bill makes its continuation in force with the new owner automatic. The bill also eliminates a potential loophole which landlords who violate the security deposit law might try to use to avoid having to surrender the security deposit for more than a bare month.

A1126 (1979)

ASSEMBLY COMMERCE, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1126

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 3, 1978

This bill provides that when a landlord sells his rental property, he must turn over to the buyer the security deposits and interest thereon which he holds for the tenants and notify the tenants of such. The other two methods of handling security deposits, the return of the security deposits to the tenants at the time of sale and the retention of the security deposits by the original landlord, are removed from the law. Tenants will no longer have to guess what has happened to their security deposits at the sale of a rental property but will now know that the security deposits have been automatically transferred to the new owner.

The committee members amended section 1 of the bill because they felt that a landlord who had violated the provisions of the act and thereby had to refund the tenant's security deposit should not be entitled to demand another security deposit from that tenant as long as the tenant rents from that landlord, let alone at the renewal of a lease. They felt that their position corresponds with both the intent of the "Rent Security Deposit Act" and the numerous court decisions on the subject.

In new section 3 the committee modified the exemption of owner-occupied premises with not more than two rental units from the "Rental Security Deposit Act" by providing that a tenant may invoke the provisions of the act by providing 30 days' written notice to such a landlord of his intentions to do such.