

46:8-21.5

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2007 **CHAPTER:** 9
NJSA: 46:8-21.5 (Imposes civil penalty on owner or lessee who fails to return security deposit to tenant whose rent or income is State-subsidized; allows recovery by the State)

BILL NO: S1115

SPONSOR(S): Rice and Turner

DATE INTRODUCED: January 30, 2006

COMMITTEE: ASSEMBLY: Housing and Local Government

SENATE: Community and Urban Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: ASSEMBLY: December 11, 2006

SENATE: May 18, 2006

DATE OF ENACTEMENT: January 24, 2007

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Second reprint enacted)

[SPONSOR'S STATEMENT](#): (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: ASSEMBLY: [Yes](#)

SENATE: [Yes](#)

[FLOOR AMENDMENT STATEMENT](#): [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

P.L. 2007, CHAPTER 9, *approved January 24, 2007*
Senate, No. 1115 (*Second Reprint*)

1 AN ACT concerning the return of certain security deposits,
2 supplementing and amending P.L.1971, c.223.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) A tenant who has received financial assistance
8 through any State or federal program, including welfare or rental
9 assistance, shall not be required to file an action in court to recover
10 deposits withheld by a landlord in violation of P.L.1967, c.265
11 (C.46:8-19 et seq.) in order to continue participation in any such
12 program.

13
14 2. Section 3 of P.L.1971, c.223 (C.46:8-21.1) is amended to read
15 as follows:

16 3. Within 30 days after the termination of the tenant's lease or
17 licensee's agreement, the owner or lessee shall return by personal
18 delivery, registered or certified mail the sum so deposited plus the
19 tenant's portion of the interest or earnings accumulated thereon, less
20 any charges expended in accordance with the terms of a contract,
21 lease, or agreement, to the tenant or licensee, or, in the case of a
22 lease terminated pursuant to P.L.1971, c.318 (C.46:8-9.1), the
23 executor or administrator of the estate of the tenant or licensee or
24 the surviving spouse of the tenant or licensee so terminating the
25 lease. The interest or earnings and any such deductions shall be
26 itemized and the tenant, licensee, executor, administrator or
27 surviving spouse notified thereof by personal delivery, registered or
28 certified mail. Notwithstanding the provisions of this or any other
29 section of law to the contrary, no deductions shall be made from a
30 security deposit of a tenant who remains in possession of the rental
31 premises.

32 Within five business days after:

33 a. the tenant is caused to be displaced by fire, flood,
34 condemnation, or evacuation, and

35 b. an authorized public official posts the premises with a notice
36 prohibiting occupancy¹; or

37 c. any building inspector, in consultation with a relocation
38 officer, where applicable, has certified within 48 hours that
39 displacement is expected to continue longer than seven days and has
40 so notified the owner or lessee in writing, the owner or lessee shall
41 have available and return to the tenant or the tenant's designated
42 agent upon his demand the sum so deposited plus the tenant's
43 portion of the interest or earnings accumulated thereon, less any

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:

¹Senate SCU committee amendments adopted March 2, 2006.

²Senate floor amendments adopted March 20, 2006.

1 charges expended in accordance with the terms of the contract,
2 lease or agreement and less any rent due and owing at the time of
3 displacement.

4 Such net sum shall continue to be available to be returned upon
5 demand during normal business hours for a period of 30 days at a
6 location in the same municipality in which the subject leased
7 property is located and shall be accompanied by an itemized
8 statement of the interest or earnings and any deductions. The owner
9 or lessee may, by mutual agreement with the municipal clerk, have
10 the municipal clerk of the municipality in which the subject leased
11 property is located return said net sum in the same manner. Within
12 three business days after receiving notification of the displacement,
13 the owner or lessee shall provide written notice to a displaced
14 tenant by personal delivery or mail to the tenant's last known
15 address. Such notice shall include, but not be limited to, the
16 location at which and the hours and days during which said net sum
17 shall be available to him. The owner or lessee shall provide a
18 duplicate notice in the same manner to the relocation officer. Where
19 a relocation officer has not been designated, the duplicate notice
20 shall be provided to the municipal clerk. When the last known
21 address of the tenant is that from which he was displaced and the
22 mailbox of that address is not accessible during normal business
23 hours, the owner or lessee shall also post such notice at each
24 exterior public entrance of the property from which the tenant was
25 displaced. Any such net sum not demanded by and returned to the
26 tenant or the tenant's designated agent within the period of 30 days
27 shall be redeposited or reinvested by the owner or lessee in an
28 appropriate interest bearing or dividend yielding account in the
29 same investment company, State or federally chartered bank,
30 savings bank or savings and loan association from which it was
31 withdrawn. In the event that said displaced tenant resumes
32 occupancy of the premises, said tenant shall redeliver to the owner
33 or lessee one-third of the security deposit immediately, one-third in
34 30 days and one-third 60 days from the date of reoccupancy. Upon
35 the failure of said tenant to make such payments of the security
36 deposit, the owner or lessee may institute legal action for
37 possession of the premises in the same manner that is authorized for
38 nonpayment of rent.

39 ¹[d.]¹ The Commissioner of Community Affairs, the Public
40 Advocate, the Attorney General, or any ²[other person] State
41 entity which made deposits on behalf of a tenant² may ²[maintain
42 an action] impose a civil penalty² against an owner or lessee who
43 has ¹willfully and intentionally¹ withheld deposits in violation of
44 section 1 of P.L.1967, c.265 (C.46:8-19), when the deposits were
45 made by or on behalf of a tenant who has received financial
46 assistance through any State or federal program, including welfare
47 or rental assistance. An owner or lessee of a tenant ²on whose

1 behalf deposits were made by a State entity² and who has ¹willfully
2 and intentionally¹ withheld such deposits in violation of this section
3 shall be liable for a civil penalty of not less than \$500 or more than
4 \$2,000 for each offense ¹[, and also shall be liable for treble
5 damages, plus attorney fees and costs of suit]¹. The penalty
6 prescribed in this ²[section] paragraph² shall be collected and
7 enforced by summary proceedings pursuant to the "Penalty
8 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.)
9 ¹[The Superior Court, Law Division, Special Civil Part, in the
10 county in which the rental premises are located shall have
11 jurisdiction over the proceedings]¹. ²The State entity which made
12 such deposits on behalf of a tenant shall be entitled to any penalty
13 amounts recovered pursuant to such proceedings.²

14 In an action ¹[other than an action maintained pursuant to
15 subsection d. of this section,]¹ by a tenant, licensee, executor,
16 administrator or surviving spouse ¹, or other person acting on behalf
17 of a tenant, licensee, executor, administrator or surviving spouse,¹
18 for the return of moneys due under this section, the court upon
19 finding for the tenant, licensee, executor, administrator or surviving
20 spouse shall award recovery of double the amount of said moneys,
21 together with full costs of any action and, in the court's discretion,
22 reasonable attorney's fees.

23 (cf: P.L.2003, c.188, s.4)

24

25 3. This act shall take effect immediately.

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30 Imposes civil penalty on owner or lessee who fails to return
31 security deposit to tenant whose rent or income is State-subsidized;
32 allows recovery by the State.

SENATE, No. 1115

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 30, 2006

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator SHIRLEY K. TURNER

District 15 (Mercer)

SYNOPSIS

Imposes civil penalty on owner or lessee who fails to return security deposit to tenant whose rent or income is State-subsidized; allows recovery by the State.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the return of certain security deposits,
2 supplementing and amending P.L.1971, c.223.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. (New section) A tenant who has received financial assistance
8 through any State or federal program, including welfare or rental
9 assistance, shall not be required to file an action in court to recover
10 deposits withheld by a landlord in violation of P.L.1967, c.265
11 (C.46:8-19 et seq.) in order to continue participation in any such
12 program.

13

14 2. Section 3 of P.L.1971, c.223 (C.46:8-21.1) is amended to read
15 as follows:

16 3. Within 30 days after the termination of the tenant's lease or
17 licensee's agreement, the owner or lessee shall return by personal
18 delivery, registered or certified mail the sum so deposited plus the
19 tenant's portion of the interest or earnings accumulated thereon, less
20 any charges expended in accordance with the terms of a contract,
21 lease, or agreement, to the tenant or licensee, or, in the case of a
22 lease terminated pursuant to P.L.1971, c.318 (C.46:8-9.1), the
23 executor or administrator of the estate of the tenant or licensee or
24 the surviving spouse of the tenant or licensee so terminating the
25 lease. The interest or earnings and any such deductions shall be
26 itemized and the tenant, licensee, executor, administrator or
27 surviving spouse notified thereof by personal delivery, registered or
28 certified mail. Notwithstanding the provisions of this or any other
29 section of law to the contrary, no deductions shall be made from a
30 security deposit of a tenant who remains in possession of the rental
31 premises.

32 Within five business days after:

33 a. the tenant is caused to be displaced by fire, flood,
34 condemnation, or evacuation, and

35 b. an authorized public official posts the premises with a notice
36 prohibiting occupancy[,] or

37 c. any building inspector, in consultation with a relocation
38 officer, where applicable, has certified within 48 hours that
39 displacement is expected to continue longer than seven days and has
40 so notified the owner or lessee in writing, the owner or lessee shall
41 have available and return to the tenant or the tenant's designated
42 agent upon his demand the sum so deposited plus the tenant's
43 portion of the interest or earnings accumulated thereon, less any
44 charges expended in accordance with the terms of the contract,

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.

S1115 RICE, TURNER

1 lease or agreement and less any rent due and owing at the time of
2 displacement.

3 Such net sum shall continue to be available to be returned upon
4 demand during normal business hours for a period of 30 days at a
5 location in the same municipality in which the subject leased
6 property is located and shall be accompanied by an itemized
7 statement of the interest or earnings and any deductions. The owner
8 or lessee may, by mutual agreement with the municipal clerk, have
9 the municipal clerk of the municipality in which the subject leased
10 property is located return said net sum in the same manner. Within
11 three business days after receiving notification of the displacement,
12 the owner or lessee shall provide written notice to a displaced
13 tenant by personal delivery or mail to the tenant's last known
14 address. Such notice shall include, but not be limited to, the
15 location at which and the hours and days during which said net sum
16 shall be available to him. The owner or lessee shall provide a
17 duplicate notice in the same manner to the relocation officer. Where
18 a relocation officer has not been designated, the duplicate notice
19 shall be provided to the municipal clerk. When the last known
20 address of the tenant is that from which he was displaced and the
21 mailbox of that address is not accessible during normal business
22 hours, the owner or lessee shall also post such notice at each
23 exterior public entrance of the property from which the tenant was
24 displaced. Any such net sum not demanded by and returned to the
25 tenant or the tenant's designated agent within the period of 30 days
26 shall be redeposited or reinvested by the owner or lessee in an
27 appropriate interest bearing or dividend yielding account in the
28 same investment company, State or federally chartered bank,
29 savings bank or savings and loan association from which it was
30 withdrawn. In the event that said displaced tenant resumes
31 occupancy of the premises, said tenant shall redeliver to the owner
32 or lessee one-third of the security deposit immediately, one-third in
33 30 days and one-third 60 days from the date of reoccupancy. Upon
34 the failure of said tenant to make such payments of the security
35 deposit, the owner or lessee may institute legal action for
36 possession of the premises in the same manner that is authorized for
37 nonpayment of rent.

38 d. The Commissioner of Community Affairs, the Public
39 Advocate, the Attorney General, or any other person may maintain
40 an action against an owner or lessee who has withheld deposits in
41 violation of section 1 of P.L.1967, c.265 (C.46:8-19), when the
42 deposits were made by or on behalf of a tenant who has received
43 financial assistance through any State or federal program, including
44 welfare or rental assistance. An owner or lessee of a tenant who has
45 withheld such deposits in violation of this section shall be liable for
46 a civil penalty of not less than \$500 or more than \$2,000 for each
47 offense, and also shall be liable for treble damages, plus attorney
48 fees and costs of suit. The penalty prescribed in this section shall

1 be collected and enforced by summary proceedings pursuant to the
2 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
3 et seq.) The Superior Court, Law Division, Special Civil Part, in
4 the county in which the rental premises are located shall have
5 jurisdiction over the proceedings.

6 In an action other than an action maintained pursuant to
7 subsection d. of this section, by a tenant, licensee, executor,
8 administrator or surviving spouse for the return of moneys due
9 under this section, the court upon finding for the tenant, licensee,
10 executor, administrator or surviving spouse shall award recovery of
11 double the amount of said moneys, together with full costs of any
12 action and, in the court's discretion, reasonable attorney's fees.
13 (cf: P.L.2003, c.188, s.4)

14

15 3. This act shall take effect immediately.

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STATEMENT

19

20 This bill would relieve a tenant who has received financial
21 assistance through any State or federal program, including welfare
22 or rental assistance, from the burden of filing an action in court to
23 recover deposits withheld by a landlord in violation of P.L.1967,
24 c.265 (C.46:8-19 et seq.) in order to continue participation in any
25 such program. The bill also authorizes the State to maintain an
26 action against such a landlord under such circumstances.

27 Current law requires landlords to return security deposits to
28 tenants who have vacated the premises in a certain manner. In
29 general, a tenant must sue to recover deposits wrongfully withheld
30 by landlords. The bill creates a civil penalty, to be enforced by the
31 State, against a landlord who fails to return a security deposit as
32 required in accordance with P.L.1967, c.265 (C.46:8-19 et seq.) to a
33 former tenant who has received financial assistance through any
34 State or federal program, including welfare or rental assistance. A
35 landlord who violates the law in such a manner will be liable for a
36 civil penalty of not less than \$500 or more than \$2,000 for each
37 offense, and also shall be liable for treble damages, plus attorney
38 fees and costs of suit. The bill provides that the penalty may be
39 imposed upon the complaint of the Commissioner of Community
40 Affairs, the Public Advocate, the Attorney General, or any other
41 person.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 1115

STATE OF NEW JERSEY

DATED: NOVEMBER 9, 2006

The Assembly Housing and Local Government Committee reports favorably Senate Bill No. 1115 (2R).

This bill would relieve a tenant who has received financial assistance through any State or federal program, including welfare or rental assistance, from the burden of filing an action in court to recover deposits withheld by a landlord in violation of P.L.1967, c.265 (C.46:8-19 et seq.) in order to continue participation in any such program. The bill also authorizes the State Commissioner of Community Affairs, the Public Advocate, the Attorney General, or other State entity to impose a penalty against a landlord who has willfully and intentionally withheld a security deposit if the deposit was made by or on behalf of a tenant who has received financial assistance through any State or federal program, including welfare or rental assistance programs. The civil penalty which may be imposed shall be not less than \$500 or more than \$2,000 for each offense.

Current law requires landlords to return security deposits in a certain manner to tenants who have vacated the premises in a certain manner. In general, a tenant must sue to recover deposits wrongfully withheld by landlords. The bill creates a civil penalty, to be enforced by the State, against a landlord who willfully and intentionally fails to return a security deposit to a former tenant if the tenant was a recipient of financial assistance through any State or federal program, including welfare or rental assistance. Current law also provides that an action may be maintained by a tenant for the return of a security deposit, with an award of double damages upon a court finding for the tenant. The bill permits the State to act on behalf of a tenant to file such an action to recover a wrongfully-withheld deposit, and to recover double damages on behalf of a tenant.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1115

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 2, 2006

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 1115.

As amended by the committee, this bill would relieve a tenant who has received financial assistance through any State or federal program, including welfare or rental assistance, from the burden of filing an action in court to recover deposits withheld by a landlord in violation of P.L.1967, c.265 (C.46:8-19 et seq.) in order to continue participation in any such program. The bill also authorizes the State to maintain an action against a landlord who has willfully and intentionally withheld a security deposit if the deposit was made by or on behalf of a tenant who has received financial assistance through any State or federal program.

Current law requires landlords to return security deposits in a certain manner to tenants who have vacated the premises in a certain manner. In general, a tenant must sue to recover deposits wrongfully withheld by landlords. The bill creates a civil penalty, to be enforced by the State, against a landlord who willfully and intentionally fails to return a security deposit to a former tenant if the tenant was a recipient of financial assistance through any State or federal program, including welfare or rental assistance. A landlord found to have willfully and intentionally withheld a security deposit under these circumstances would be subject to a civil penalty of not less than \$500 or more than \$2,000 for each offense, and also would be subject to double damages, plus attorney fees and costs of suit. The bill provides that an action to recover a security deposit could be instituted by the Commissioner of Community Affairs, the Public Advocate, the Attorney General, or any other person.

The committee amended the bill to limit the imposition of enhanced penalties and the ability of others to intervene on behalf of a tenant whose security deposit has been withheld to those cases when the deposit has been “willfully and intentionally” withheld. The committee also deleted a provision that would have authorized the imposition of treble damages upon someone found to have withheld a security deposit in violation of the circumstances contained in the bill and replaced it with a provision authorizing the imposition of double

damages. Additionally, in response to a request from the Administrative Office of the Courts, the committee deleted a provision that specified the Superior Court, Law Division, Special Civil Part, in the county in which a rental premises is located as the court with jurisdiction over proceedings seeking the return of a security deposit.

STATEMENT TO
[First Reprint]
SENATE, No. 1115

with Senate Floor Amendments
(Proposed By Senator RICE)

ADOPTED: MARCH 20, 2006

These floor amendments clarify that the penalty created under the bill, chargeable to a landlord who willfully and intentionally withheld such deposits in violation of tenant security deposit laws for a deposit which was made by a State entity on the behalf of a tenant who has received financial assistance through any State or federal program, including welfare or rental assistance, is to be imposed by the State entity that made the deposit. In addition, the floor amendments clarify that the public entity which made the security deposit on behalf of a tenant shall be entitled to any penalty recovered pursuant to the bill.

The amendments also clarify that the penalty that may be imposed is separate and apart from the double damages award that tenants themselves may collect under current law if they successfully sue a landlord for the return of a security deposit. The bill would permit persons acting on behalf of a tenant, such as a State entity, to maintain a claim for the return of a security deposit in a similar manner.