

46:8-19

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 188
NJSA: 46:8-19 (Security deposit - interest)
BILL NO: A2608 (Substituted for S1579)
SPONSOR(S): McKeon and Ahearn
DATE INTRODUCED: June 28, 2002
COMMITTEE: **ASSEMBLY:** Housing and Local Government

SENATE: -----

AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** March 13, 2003
SENATE: June 16, 2003
DATE OF APPROVAL: October 1, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (1st reprint enacted)
(Amendments during passage denoted by superscript numbers)

A2608

[SPONSORS STATEMENT](#): (Begins on page 6 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S1579

[SPONSORS STATEMENT](#): (Begins on page 6 of original bill) [Yes](#)
Bill and Sponsors Statement identical to A2608

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)
Identical to Assembly Statement for A2608

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

Yes

"Law changes rules for rental security deposits," 10-2-2003 The Times, p.A15

"Landlords get new fulres to cap security deposits," 10-2-2003 Star Ledger, p.36

"New law offers more protection..." 10-2-2003 The Record, p.L3

P.L. 2003, CHAPTER 188, *approved October 1, 2003*
Assembly Bill No. 2608 (*First Reprint*)

1 AN ACT concerning ¹[interest on] tenant¹ security deposits
2 ¹[and] ¹amending P.L. 1967, c. 265 ¹and P.L.1971, c.223 and
3 supplementing chapter 8 of Title 46 of the Revised Statutes¹.
4

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

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

10 1. Whenever money or other form of security shall be deposited or
11 advanced on a contract, lease or license agreement for the use or
12 rental of real property as security for performance of the contract,
13 lease or agreement or to be applied to payments upon such contract,
14 lease or agreement when due, such money or other form of security,
15 until repaid or so applied including the tenant's portion of the interest
16 or earnings accumulated thereon as hereinafter provided, shall
17 continue to be the property of the person making such deposit or
18 advance and shall be held in trust by the person with whom such
19 deposit or advance shall be made for the use in accordance with the
20 terms of the contract, lease or agreement and shall not be mingled with
21 the personal property or become an asset of the person receiving the
22 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 and
26 registered under the "Investment Company Act of 1940," 54 Stat. 789
27 (15 U.S.C.s.80a-1 et seq.) whose shares are registered under the
28 "Securities Act of 1933," 48 Stat. 74 (15 U.S.C.s.77a. et seq.) and the
29 only investments of which fund are instruments maturing in one year
30 or less, or (2) deposit that money in a State or federally chartered
31 bank, savings bank or savings and loan association in this State insured
32 by an agency of the federal government in an account bearing a
33 variable rate of interest, which shall be established at least quarterly,
34 which is similar to the average rate of interest on active
35 interest-bearing money market transaction accounts paid by the bank
36 or association ¹[under 12 C.F.R. Part 1204.108]¹, or equal to similar
37 accounts of an investment company described in paragraph (1) of this
38 subsection¹ [, less an amount not to exceed 1% per annum of the
39 amount so invested or deposited for the costs of servicing and

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:

¹ Assembly AHO committee amendments adopted March 10, 2003.

1 processing the account]¹.

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

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

20 c. The person investing the security deposit pursuant to subsection
21 a. or b. of this section shall [thereupon] notify in writing each of the
22 persons making such security deposit or advance, giving the name and
23 address of the investment company, State or federally chartered bank,
24 savings bank or savings and loan association in which the deposit or
25 investment of security money is made, the type of account in which the
26 security deposit is deposited or invested, the current rate of interest
27 for that account, and the amount of such deposit or investment, in
28 accordance with the following:

29 (1) within 30 days of the receipt of the security deposit from the
30 tenant;

31 (2) within 30 days of moving the deposit from one depository
32 institution or fund to another¹, except in the case of a merger of
33 institutions or funds, then within 30 days of the date the person
34 investing the security deposit receives notice of that merger¹, or from
35 one account to another account,¹if the change in the account or
36 institution occurs more than 60 days prior to the annual interest
37 payment¹;

38 (3) within 30 days after the effective date of P.L. _____, c.
39 (C. _____) (now before the Legislature as this bill); ¹[and]¹

40 (4) at the time of each annual interest payment¹; and

41 (5) within 30 days after the transfer or conveyance of ownership
42 or control of the property pursuant to section 2 of P.L.1967, c.265
43 (C.46:8-20)¹.

44 All of the money so deposited or advanced may be deposited or
45 invested by the person receiving the same in one interest-bearing or
46 dividend yielding account as long as he complies with all the other

1 requirements of this act.

2 [The person receiving money so deposited or so advanced shall be
3 entitled to receive as administrative expenses, a sum equivalent to 1%
4 per annum thereon or 12.5% of the aggregate interest yield on the
5 security deposit, whichever is greater, less the amount of any service
6 fee charged by an investment company, a State or federally chartered
7 bank, savings bank or savings and loan association for money
8 deposited pursuant to this section, which shall be in lieu of all other
9 administrative and custodial expenses.] The [balance of the] interest
10 or earnings paid thereon by the investment company, State or federally
11 chartered bank, savings bank or savings and loan association,
12 [hereinafter referred to as tenant's portion,] shall belong to the person
13 making the deposit or advance and shall be [permitted to compound
14 to the benefit of the tenant, or be] paid to the tenant in cash[, or be
15 credited toward the payment of rent due]¹, or be credited toward the
16 payment of rent due¹ on the renewal or anniversary of said tenant's
17 lease ¹or on January 31, if the tenant has been given written notice
18 after the effective date of P.L. , c. (now before the Legislature as
19 this bill) and before the next anniversary of the tenant's lease, that
20 subsequent interest payments will be made on January 31 of each
21 year¹.

22 [In the event] If the person receiving a security deposit fails to
23 invest or deposit the security money in the manner required under this
24 section or [notify the tenant of the name and address of the investment
25 company, State or federally chartered bank, savings bank or savings
26 and loan association in which the deposit or investment of such
27 security is made, and the amount thereof, within 30 days after receipt
28 of same from the tenant, or within 30 days after the effective date of
29 this 1990 amendatory act, whichever occurs later,] to provide the
30 notice or pay the interest to the tenant as required under this
31 subsection, the tenant may give written notice to [the] that person
32 [receiving the same] that such security money plus an amount
33 representing interest at the rate of seven percent per annum be applied
34 on account of rent payment or payments due or to become due from
35 the tenant, and thereafter the tenant shall be without obligation to
36 make any further security deposit and the person receiving the money
37 so deposited shall not be entitled to make further demand for a
38 security deposit. ¹However, in the case of a failure by the person
39 receiving the security deposit to pay the annual interest or to provide
40 the annual notice at the time of the annual interest payment, if the
41 annual notice is not also serving as a notice of change of account or
42 institution, before the tenant may apply the security deposit plus
43 interest on account of the rent payment or payments due or to become
44 due on the part of the tenant, the tenant shall first give that person a
45 written notice of his failure and shall allow that person 30 days from

1 the mailing date or hand delivery of this notice to comply with the
2 annual interest payment or annual notice, or both.¹

3 d. The provisions of this section requiring that the security
4 advanced be deposited or invested in a money market fund, or in an
5 interest bearing account in a State or federally chartered bank, savings
6 bank or savings and loan association shall not apply to any security
7 advanced on a contract, lease or license agreement for the seasonal use
8 or rental of real property. For purposes of this paragraph "seasonal
9 use or rental" means use or rental for a term of not more than
10 125 consecutive days for residential purposes by a person having a
11 permanent place of residence elsewhere. "Seasonal use or rental" does
12 not mean use or rental of living quarters for seasonal, temporary or
13 migrant farm workers in connection with any work or place where
14 work is being performed. The landlord shall have the burden of
15 proving that the use or rental of the residential property is seasonal.
16 (cf: P.L.1997, c.310, s.1)

17

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

20 2. Any person, whether the owner or lessee of the property leased,
21 who or which has or hereafter shall have received from a tenant or
22 licensee a sum of money as a deposit or advance of rental as security
23 for the full performance by such tenant or licensee of the terms of his
24 contract, lease or license agreement, or who or which has or shall have
25 received the same from a former owner or lessee, shall, upon
26 conveying such property or assigning his or its lease to another, or
27 upon the conveyance of such property to another person by a court in
28 an action to foreclose a mortgage thereon, at the time of the delivery
29 of the deed or instrument of assignment, or within five days thereafter,
30 or in the event of the insolvency or bankruptcy of the person receiving
31 said deposit, within five days after the making and entry of an order of
32 the court discharging the receiver or trustee, deal with the security
33 deposit by turning over to his or its grantee or assignee, or to the
34 purchaser at the foreclosure sale the sum so deposited, plus the
35 tenant's portion of the interest or earnings accumulated thereon, and
36 notify the tenant or licensee by registered or certified mail of such
37 turning over and the name and address of such grantee, assignee or
38 purchaser. Notwithstanding any other provision of law to the
39 contrary, it shall be the duty and obligation of the grantee, assignee or
40 purchaser to obtain from the grantor who is the owner or lessee at the
41 time of the transfer, conveyance or purchase any and all security
42 deposits, plus accrued interest on the deposits, that the owner or
43 lessee received from a tenant, licensee or previous owner or lessee,
44 and which deposits were invested, or should have been invested, in the
45 manner required by section 1 of P.L. 1967, c. 265 (C.46:8-19).
46 (cf: P.L.1985, c.42, s.2)

1 3. Section 3 of P.L.1967, c.265 (C.46:8-21) is amended to read as
2 follows:

3 3. Any owner or lessee turning over to his or its grantee, assignee,
4 or to a purchaser of the leased premises at a foreclosure sale the
5 amount of such security deposit, plus the tenant's portion of the
6 interest or earnings accumulated thereon, is hereby relieved of and
7 from liability to the tenant or licensee for the repayment thereof [; and
8 the transferee of such security deposit, plus the tenant's portion of the
9 interest or earnings accumulated thereon,]. Whether or not the
10 deposit plus accumulated interest are so transferred, the grantee,
11 assignee or purchaser of the leased premises is [hereby made]
12 nevertheless responsible for ¹the proper investment of the security
13 deposit, giving all notices and paying interest pursuant to section 1 of
14 P.L.1967, c.265 (C.46:8-19) and for¹ the return [thereof] of the
15 security deposit, plus any accumulated earnings or interest thereon, to
16 the tenant or licensee, in accordance with the terms of the contract,
17 lease, or agreement unless he or it shall thereafter and before the
18 expiration of the term of the tenant's lease or licensee's agreement,
19 transfer such security deposit to another, pursuant to section 2
20 [hereof] of P.L.1967, c.365 (C.46:8-20) and give the requisite notice
21 in connection therewith as provided thereby.

22 (cf: P.L.1985, c.42, s.3)

23

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

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

41 Within five business days after a. the tenant is caused to be
42 displaced by fire, flood, condemnation, or evacuation, and b. an
43 authorized public official posts the premises with a notice prohibiting
44 occupancy, or c. any building inspector, in consultation with a
45 relocation officer, where applicable, has certified within 48 hours that
46 displacement is expected to continue longer than seven days and has

1 so notified the owner or lessee in writing, the owner or lessee shall
2 have available and return to the tenant or the tenant's designated agent
3 upon his demand the sum so deposited plus the tenant's portion of the
4 interest or earnings accumulated thereon, less any charges expended
5 in accordance with the terms of the contract, lease or agreement and
6 less any rent due and owing at the time of displacement.

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

40 In any action by a tenant, licensee, executor, administrator or
41 surviving spouse for the return of moneys due under this section, the
42 court upon finding for the tenant, licensee, executor, administrator or
43 surviving spouse shall award recovery of double the amount of said
44 moneys, together with full costs of any action and, in the court's
45 discretion, reasonable attorney's fees.¹
46 (cf: P.L.1985, c.317, s.1)

1 ¹5. Section 4 of P.L.1971, c.223 (C.46:8-21.2) is amended to read
2 as follows:

3 4. An owner or lessee may not require more than a sum equal to 1
4 1/2 times 1 month's rental according to the terms of contract, lease, or
5 agreement as a security for the use or rental of real property used for
6 dwelling purposes. Whenever an owner or lessee collects from a
7 tenant an additional amount of security deposit, the amount collected
8 annually as additional security shall not be greater than 10 percent of
9 the current security deposit.¹

10 (cf: P.L.1971, c.223, s.4)

11

12 ¹6. (New section) Notwithstanding any law or rule to the contrary,
13 the Division of Small Claims of the Superior Court, Law Division,
14 Special Civil Part shall have jurisdiction of actions between an owner
15 or lessee and tenant for the return of all or a part of a security deposit
16 in which the amount in dispute, including any applicable penalties,
17 does not exceed the sum of \$5,000, exclusive of costs.¹

18

19 ¹[4.] 7.¹ This act shall take effect on the first day of the third
20 month after enactment.

21

22

23

24

25 _____

Makes various changes to tenant security deposit laws.

ASSEMBLY, No. 2608

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 28, 2002

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblyman MATT AHEARN

District 38 (Bergen)

Co-Sponsored by:

Assemblyman Edwards

SYNOPSIS

Makes various changes to tenant security deposit laws.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/11/2003)

1 AN ACT concerning interest on security deposits and amending
2 P.L. 1967, c. 265.

3

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

6

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

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

22 The person receiving money so deposited or advanced shall:

23 a. (1) Invest that money in shares of an insured money market fund
24 established by an investment company based in this State and
25 registered under the "Investment Company Act of 1940," 54 Stat. 789
26 (15 U.S.C.s.80a-1 et seq.) whose shares are registered under the
27 "Securities Act of 1933," 48 Stat. 74 (15 U.S.C.s.77a. et seq.) and the
28 only investments of which fund are instruments maturing in one year
29 or less, or (2) deposit that money in a State or federally chartered
30 bank, savings bank or savings and loan association in this State insured
31 by an agency of the federal government in an account bearing a
32 variable rate of interest, which shall be established at least quarterly,
33 which is similar to the average rate of interest on active
34 interest-bearing money market transaction accounts paid by the bank
35 or association under 12 C.F.R. Part 1204.108, or equal to similar
36 accounts of an investment company described in paragraph (1) of this
37 subsection, less an amount not to exceed 1% per annum of the amount
38 so invested or deposited for the costs of servicing and processing the
39 account.

40 This subsection shall not apply to persons receiving money for less
41 than 10 rental units except where required by the Commissioner of
42 Banking and Insurance by rule or regulation. The commissioner shall
43 apply the provisions of this subsection to some or all persons receiving

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.

1 money for less than 10 rental units where the commissioner finds that
2 it is practicable to deposit or invest the money received with an
3 investment company or State or federally chartered bank, savings bank
4 or savings and loan association in accordance with this subsection.
5 Except as expressly provided herein, nothing in this subsection shall
6 affect or modify the rights or obligations of persons receiving money
7 for rental premises or units, tenants, licensees or contractees under any
8 other law.

9 b. Persons not required to invest or deposit money in accordance
10 with subsection a. of this section shall deposit such money in a State
11 or federally chartered bank, savings bank or savings and loan
12 association in this State insured by an agency of the federal
13 government in an account bearing interest at the rate currently paid by
14 such institutions and associations on time or savings deposits.

15 c. The person investing the security deposit pursuant to subsection
16 a. or b. of this section shall [thereupon] notify in writing each of the
17 persons making such security deposit or advance, giving the name and
18 address of the investment company, State or federally chartered bank,
19 savings bank or savings and loan association in which the deposit or
20 investment of security money is made, the type of account in which the
21 security deposit is deposited or invested, the current rate of interest
22 for that account, and the amount of such deposit or investment, in
23 accordance with the following:

24 (1) within 30 days of the receipt of the security deposit from the
25 tenant;

26 (2) within 30 days of moving the deposit from one depository
27 institution or fund to another, or from one account to another account;

28 (3) within 30 days after the effective date of P.L. , c. (C.)
29 (now before the Legislature as this bill); and

30 (4) at the time of each annual interest payment.

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 or
33 dividend yielding account as long as he complies with all the other
34 requirements of this act.

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

1 to the benefit of the tenant, or be] paid to the tenant in cash[, or be
2 credited toward the payment of rent due] on the renewal or
3 anniversary of said tenant's lease.

4 [In the event] If the person receiving a security deposit fails to
5 invest or deposit the security money in the manner required under this
6 section or [notify the tenant of the name and address of the investment
7 company, State or federally chartered bank, savings bank or savings
8 and loan association in which the deposit or investment of such
9 security is made, and the amount thereof, within 30 days after receipt
10 of same from the tenant, or within 30 days after the effective date of
11 this 1990 amendatory act, whichever occurs later,] to provide the
12 notice or pay the interest to the tenant as required under this
13 subsection. the tenant may give written notice to [the] that person
14 [receiving the same] that such security money plus an amount
15 representing interest at the rate of seven percent per annum be applied
16 on account of rent payment or payments due or to become due from
17 the tenant, and thereafter the tenant shall be without obligation to
18 make any further security deposit and the person receiving the money
19 so deposited shall not be entitled to make further demand for a
20 security deposit.

21 d. The provisions of this section requiring that the security
22 advanced be deposited or invested in a money market fund, or in an
23 interest bearing account in a State or federally chartered bank, savings
24 bank or savings and loan association shall not apply to any security
25 advanced on a contract, lease or license agreement for the seasonal use
26 or rental of real property. For purposes of this paragraph "seasonal
27 use or rental" means use or rental for a term of not more than 125
28 consecutive days for residential purposes by a person having a
29 permanent place of residence elsewhere. "Seasonal use or rental" does
30 not mean use or rental of living quarters for seasonal, temporary or
31 migrant farm workers in connection with any work or place where
32 work is being performed. The landlord shall have the burden of
33 proving that the use or rental of the residential property is seasonal.
34 (cf: P.L.1997, c.310, s.1)

35
36 2. Section 2 of P.L. 1967, c. 265 (C.46:8-20) is amended to read
37 as follows:

38 2. Any person, whether the owner or lessee of the property leased,
39 who or which has or hereafter shall have received from a tenant or
40 licensee a sum of money as a deposit or advance of rental as security
41 for the full performance by such tenant or licensee of the terms of his
42 contract, lease or license agreement, or who or which has or shall have
43 received the same from a former owner or lessee, shall, upon
44 conveying such property or assigning his or its lease to another, or
45 upon the conveyance of such property to another person by a court in
46 an action to foreclose a mortgage thereon, at the time of the delivery

1 of the deed or instrument of assignment, or within five days thereafter,
2 or in the event of the insolvency or bankruptcy of the person receiving
3 said deposit, within five days after the making and entry of an order of
4 the court discharging the receiver or trustee, deal with the security
5 deposit by turning over to his or its grantee or assignee, or to the
6 purchaser at the foreclosure sale the sum so deposited, plus the
7 tenant's portion of the interest or earnings accumulated thereon, and
8 notify the tenant or licensee by registered or certified mail of such
9 turning over and the name and address of such grantee, assignee or
10 purchaser. Notwithstanding any other provision of law to the
11 contrary, it shall be the duty and obligation of the grantee, assignee or
12 purchaser to obtain from the grantor who is the owner or lessee at the
13 time of the transfer, conveyance or purchase any and all security
14 deposits, plus accrued interest on the deposits, that the owner or
15 lessee received from a tenant, licensee or previous owner or lessee,
16 and which deposits were invested, or should have been invested, in the
17 manner required by section 1 of P.L. 1967, c. 265 (C.46:8-19).
18 (cf: P.L.1985, c.42, s.2)

19

20 3. Section 3 of P.L. 1967, c. 265 (C.46:8-21) is amended to read
21 as follows:

22 3. Any owner or lessee turning over to his or its grantee, assignee,
23 or to a purchaser of the leased premises at a foreclosure sale the
24 amount of such security deposit, plus the tenant's portion of the
25 interest or earnings accumulated thereon, is hereby relieved of and
26 from liability to the tenant or licensee for the repayment thereof [; and
27 the transferee of such security deposit, plus the tenant's portion of the
28 interest or earnings accumulated thereon,] . Whether or not the
29 deposit plus accumulated interest are so transferred, the grantee,
30 assignee or purchaser of the leased premises is [hereby made]
31 nevertheless responsible for the return [thereof] of the security
32 deposit, plus any accumulated earnings or interest thereon, to the
33 tenant or licensee, in accordance with the terms of the contract, lease,
34 or agreement unless he or it shall thereafter and before the expiration
35 of the term of the tenant's lease or licensee's agreement, transfer such
36 security deposit to another, pursuant to section 2 [hereof] of P.L.
37 1967, c. 365 (C.46:8-20) and give the requisite notice in connection
38 therewith as provided thereby.

39 (cf: P.L. 1985, c. 42, s. 3)

40

41 4. This act shall take effect on the first day of the third month after
42 enactment.

1 STATEMENT

2

3 This bill makes several changes to the tenant security deposit laws.
4 The bill eliminates the right of a landlord to receive administrative
5 expenses from the interest earned on a security deposit account. The
6 bill would also require additional notifications to a tenant, beyond the
7 location of the initial deposit as is currently required. These
8 notifications would be made upon the movement of the deposit to
9 another account or to another bank, and also upon the payment to the
10 tenant of the interest earned, which will now be required annually
11 under the bills' provisions. The bill would require the notice to include
12 the rate of interest earned on the account. If a landlord fails to
13 properly notify a tenant, the landlord could be subject to a penalty of
14 seven percent interest on the deposit, as well as having the security
15 deposit applied to rent. The bill also makes a purchaser of rental
16 premises responsible for the transfer and control of the security
17 deposits for the premises.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2608

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2003

The Assembly Housing and Local Government Committee reports favorably Assembly Bill No. 2608.

This bill, as amended by the committee, makes several changes to the tenant security deposit laws. The bill eliminates the right of a landlord to receive administrative expenses from the earnings of a security deposit account. A landlord is currently entitled to receive administration expenses of 1% per annum on the security deposit or 12.5% of the aggregate yield on the security deposit.

The bill also requires additional notifications to a tenant, beyond the current notice of the location of the initial deposit or investment and the amount of such deposit or investment, including the type of account in which the security deposit is deposited or invested and the current rate of return for the account. These notifications are to be made upon the movement of the deposit to another account or to another bank or fund; upon the payment to the tenant of the earnings, which will now be required annually under the bill's provisions; and upon the transfer or conveyance of ownership or control of the rental property. If a landlord fails to properly notify a tenant or pay the earnings annually to the tenant, the landlord is subject to a penalty of seven percent interest on the deposit, as well as having the security deposit applied to rent. However, in the case of failure by the landlord to pay the annual interest or to provide the annual notice at the time of the annual interest payment, a tenant cannot apply the security deposit to the rent payments unless the tenant notifies the landlord of his failure and gives him 30 days to correct it. The bill also makes a purchaser of rental premises responsible for the transfer and control of the security deposits for the premises. Whether or not the deposit plus earnings are transferred to the purchaser, the purchaser is responsible for the return of the security deposit, plus any accumulated earnings thereon.

Committee Amendments

The amendments to the bill provide that: the interest or earnings may be paid or credited to the rent on the renewal or anniversary of the lease or January 31 with written notice; no deduction may be made from a security deposit of a tenant who remains in possession of the rental property; a landlord is prohibited from raising the amount of the security deposit by more than 10% annually; and disputes on the return of security deposits in the amount of \$5,000 or less may be brought in Small Claims Court.

The bill, as amended, is identical to Senate, No. 1579[1R] of 2002.

SENATE, No. 1579

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MAY 30, 2002

Sponsored by:

Senator BYRON M. BAER

District 37 (Bergen)

Co-Sponsored by:

Senators Coniglio, Singer and McNamara

SYNOPSIS

Makes various changes to tenant security deposit laws.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/28/2003)

S1579 BAER

2

1 AN ACT concerning interest on security deposits and amending
2 P.L. 1967, c. 265.

3

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

6

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

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

22 The person receiving money so deposited or advanced shall:

23 a. (1) Invest that money in shares of an insured money market fund
24 established by an investment company based in this State and
25 registered under the "Investment Company Act of 1940," 54 Stat. 789
26 (15 U.S.C.s.80a-1 et seq.) whose shares are registered under the
27 "Securities Act of 1933," 48 Stat. 74 (15 U.S.C.s.77a. et seq.) and the
28 only investments of which fund are instruments maturing in one year
29 or less, or (2) deposit that money in a State or federally chartered
30 bank, savings bank or savings and loan association in this State insured
31 by an agency of the federal government in an account bearing a
32 variable rate of interest, which shall be established at least quarterly,
33 which is similar to the average rate of interest on active
34 interest-bearing money market transaction accounts paid by the bank
35 or association under 12 C.F.R. Part 1204.108, or equal to similar
36 accounts of an investment company described in paragraph (1) of this
37 subsection, less an amount not to exceed 1% per annum of the amount
38 so invested or deposited for the costs of servicing and processing the
39 account.

40 This subsection shall not apply to persons receiving money for less
41 than 10 rental units except where required by the Commissioner of
42 Banking and Insurance by rule or regulation. The commissioner shall
43 apply the provisions of this subsection to some or all persons receiving

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.

1 money for less than 10 rental units where the commissioner finds that
2 it is practicable to deposit or invest the money received with an
3 investment company or State or federally chartered bank, savings bank
4 or savings and loan association in accordance with this subsection.
5 Except as expressly provided herein, nothing in this subsection shall
6 affect or modify the rights or obligations of persons receiving money
7 for rental premises or units, tenants, licensees or contractees under any
8 other law.

9 b. Persons not required to invest or deposit money in accordance
10 with subsection a. of this section shall deposit such money in a State
11 or federally chartered bank, savings bank or savings and loan
12 association in this State insured by an agency of the federal
13 government in an account bearing interest at the rate currently paid by
14 such institutions and associations on time or savings deposits.

15 c. The person investing the security deposit pursuant to subsection
16 a. or b. of this section shall [thereupon] notify in writing each of the
17 persons making such security deposit or advance, giving the name and
18 address of the investment company, State or federally chartered bank,
19 savings bank or savings and loan association in which the deposit or
20 investment of security money is made, the type of account in which the
21 security deposit is deposited or invested, the current rate of interest
22 for that account, and the amount of such deposit or investment, in
23 accordance with the following:

24 (1) within 30 days of the receipt of the security deposit from the
25 tenant;

26 (2) within 30 days of moving the deposit from one depository
27 institution or fund to another, or from one account to another account;

28 (3) within 30 days after the effective date of P.L. , c. (C.)
29 (now before the Legislature as this bill); and

30 (4) at the time of each annual interest payment.

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 or
33 dividend yielding account as long as he complies with all the other
34 requirements of this act.

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

1 to the benefit of the tenant, or be] paid to the tenant in cash[, or be
2 credited toward the payment of rent due] on the renewal or
3 anniversary of said tenant's lease.

4 [In the event] If the person receiving a security deposit fails to
5 invest or deposit the security money in the manner required under this
6 section or [notify the tenant of the name and address of the investment
7 company, State or federally chartered bank, savings bank or savings
8 and loan association in which the deposit or investment of such
9 security is made, and the amount thereof, within 30 days after receipt
10 of same from the tenant, or within 30 days after the effective date of
11 this 1990 amendatory act, whichever occurs later,] to provide the
12 notice or pay the interest to the tenant as required under this
13 subsection. the tenant may give written notice to [the] that person
14 [receiving the same] that such security money plus an amount
15 representing interest at the rate of seven percent per annum be applied
16 on account of rent payment or payments due or to become due from
17 the tenant, and thereafter the tenant shall be without obligation to
18 make any further security deposit and the person receiving the money
19 so deposited shall not be entitled to make further demand for a
20 security deposit.

21 d. The provisions of this section requiring that the security
22 advanced be deposited or invested in a money market fund, or in an
23 interest bearing account in a State or federally chartered bank, savings
24 bank or savings and loan association shall not apply to any security
25 advanced on a contract, lease or license agreement for the seasonal use
26 or rental of real property. For purposes of this paragraph "seasonal
27 use or rental" means use or rental for a term of not more than 125
28 consecutive days for residential purposes by a person having a
29 permanent place of residence elsewhere. "Seasonal use or rental" does
30 not mean use or rental of living quarters for seasonal, temporary or
31 migrant farm workers in connection with any work or place where
32 work is being performed. The landlord shall have the burden of
33 proving that the use or rental of the residential property is seasonal.
34 (cf: P.L.1997, c.310, s.1)

35
36 2. Section 2 of P.L. 1967, c. 265 (C.46:8-20) is amended to read
37 as follows:

38 2. Any person, whether the owner or lessee of the property leased,
39 who or which has or hereafter shall have received from a tenant or
40 licensee a sum of money as a deposit or advance of rental as security
41 for the full performance by such tenant or licensee of the terms of his
42 contract, lease or license agreement, or who or which has or shall have
43 received the same from a former owner or lessee, shall, upon
44 conveying such property or assigning his or its lease to another, or
45 upon the conveyance of such property to another person by a court in
46 an action to foreclose a mortgage thereon, at the time of the delivery

1 of the deed or instrument of assignment, or within five days thereafter,
2 or in the event of the insolvency or bankruptcy of the person receiving
3 said deposit, within five days after the making and entry of an order of
4 the court discharging the receiver or trustee, deal with the security
5 deposit by turning over to his or its grantee or assignee, or to the
6 purchaser at the foreclosure sale the sum so deposited, plus the
7 tenant's portion of the interest or earnings accumulated thereon, and
8 notify the tenant or licensee by registered or certified mail of such
9 turning over and the name and address of such grantee, assignee or
10 purchaser. Notwithstanding any other provision of law to the
11 contrary, it shall be the duty and obligation of the grantee, assignee or
12 purchaser to obtain from the grantor who is the owner or lessee at the
13 time of the transfer, conveyance or purchase any and all security
14 deposits, plus accrued interest on the deposits, that the owner or
15 lessee received from a tenant, licensee or previous owner or lessee,
16 and which deposits were invested, or should have been invested, in the
17 manner required by section 1 of P.L. 1967, c. 265 (C.46:8-19).
18 (cf: P.L.1985, c.42, s.2)

19

20 3. Section 3 of P.L. 1967, c. 265 (C.46:8-21) is amended to read
21 as follows:

22 3. Any owner or lessee turning over to his or its grantee, assignee,
23 or to a purchaser of the leased premises at a foreclosure sale the
24 amount of such security deposit, plus the tenant's portion of the
25 interest or earnings accumulated thereon, is hereby relieved of and
26 from liability to the tenant or licensee for the repayment thereof [; and
27 the transferee of such security deposit, plus the tenant's portion of the
28 interest or earnings accumulated thereon,] . Whether or not the
29 deposit plus accumulated interest are so transferred, the grantee,
30 assignee or purchaser of the leased premises is [hereby made]
31 nevertheless responsible for the return [thereof] of the security
32 deposit, plus any accumulated earnings or interest thereon, to the
33 tenant or licensee, in accordance with the terms of the contract, lease,
34 or agreement unless he or it shall thereafter and before the expiration
35 of the term of the tenant's lease or licensee's agreement, transfer such
36 security deposit to another, pursuant to section 2 [hereof] of P.L.
37 1967, c. 365 (C.46:8-20) and give the requisite notice in connection
38 therewith as provided thereby.

39 (cf: P.L. 1985, c. 42, s. 3)

40

41 4. This act shall take effect on the first day of the third month after
42 enactment.

1 STATEMENT

2

3 This bill makes several changes to the tenant security deposit laws.
4 The bill eliminates the right of a landlord to receive administrative
5 expenses from the interest earned on a security deposit account. The
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7 location of the initial deposit as is currently required. These
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10 tenant of the interest earned, which will now be required annually
11 under the bills' provisions. The bill would require the notice to include
12 the rate of interest earned on the account. If a landlord fails to
13 properly notify a tenant, the landlord could be subject to a penalty of
14 seven percent interest on the deposit, as well as having the security
15 deposit applied to rent. The bill also makes a purchaser of rental
16 premises responsible for the transfer and control of the security
17 deposits for the premises.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1579

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 2003

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1579.

This bill, as amended by the committee, makes several changes to the tenant security deposit laws. The bill eliminates the right of a landlord to receive administrative expenses from the earnings of a security deposit account. A landlord is currently entitled to receive administration expenses of 1% per annum on the security deposit or 12.5% of the aggregate yield on the security deposit.

The bill also requires additional notifications to a tenant, beyond the current notice of the location of the initial deposit or investment and the amount of such deposit or investment, including the type of account in which the security deposit is deposited or invested and the current rate of return for the account. These notifications are to be made upon the movement of the deposit to another account or to another bank or fund; upon the payment to the tenant of the earnings, which will now be required annually under the bill's provisions; and upon the transfer or conveyance of ownership or control of the rental property. If a landlord fails to properly notify a tenant or pay the earnings annually to the tenant, the landlord is subject to a penalty of seven percent interest on the deposit, as well as having the security deposit applied to rent. However, in the case of failure by the landlord to pay the annual interest or to provide the annual notice at the time of the annual interest payment, a tenant cannot apply the security deposit to the rent payments unless the tenant notifies the landlord of his failure and gives him 30 days to correct it. The bill also makes a purchaser of rental premises responsible for the transfer and control of the security deposits for the premises. Whether or not the deposit plus earnings are transferred to the purchaser, the purchaser is responsible for the return of the security deposit, plus any accumulated earnings thereon.

The amendments to the bill provide that: the interest or earnings may be paid or credited to the rent on the renewal or anniversary of the lease or January 31 with written notice; no deduction may be made from a security deposit of a tenant who remains in possession of the rental property; a landlord is prohibited from raising the amount of the

security deposit by more than 10% annually; and disputes on the return of security deposits in the amount of \$5,000 or less may be brought in Small Claims Court.

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Press Releases

PO BOX 004
TRENTON, NJ 08625

Contact: Micah Rasmussen
609-777-2600

RELEASE: October 01, 2003

[Previous Screen](#)

McGreevey Signs Bill to Protect Tenant Rights

Bill Makes Sweeping Changing to Current Security Deposit Laws

(FORT LEE)—As part of his continuing effort to protect New Jersey families, Governor James E. McGreevey today signed Assembly bill A-2608, creating additional protections for tenants throughout the State by making changes to current security deposit laws. Joining the Governor were legislative sponsors, Senator Joseph Coniglio and Senator Byron Baer, as well as Matt Shapiro, President of the New Jersey Tenants' Association.

“Today we are striking a new balance of fairness when it comes to the rights of both tenants and their landlords,” said McGreevey. “This legislation continues to give landlords the protections they need, but does it in a way that does not unfairly penalize the tenant.”

The new law makes several changes to existing tenant laws, specifically those dealing with security deposits and tenant notification requirements:

- Eliminates landlords' right to charge an administration fee. Previous law allowed a yearly one percent charge on the security deposit to manage the account.
- Requires landlords to provide better notification about the location and status of the security deposit. The new law will require that annual notice is given regarding the name of the bank, type of account and the interest rate. If the landlord fails to properly notify a tenant or pay the earnings on the account, the landlord will be subject to a penalty of seven percent interest on the deposit.
- When a building is sold it is now the responsibility of the new landlord to obtain security deposits from the old landlord. A loophole in the existing law allowed for a new landlord to ask the tenant for a new deposit, without requiring the old landlord to refund the tenant's existing deposit.
- Clarifies the law to prevent landlords from taking unwarranted deductions out of the security deposit when the tenant moves out.
- Upgrades the small claims court limit to \$5,000 when involving tenant security deposit, considering the average security deposit in New Jersey is \$1,350 (based on an average one bedroom apartment rent of \$900). Suing for twice the amount would far

exceed small claim's court \$2,000 limit. Under current law you can sue for twice your deposit if it is not received within 30 days of the lease-end date.

- Tenants will now have the option of applying the accrued interest each year to their current rental on the renewal or anniversary of the lease, or on Jan. 31 of each year. A landlord who fails to comply must pay a penalty of seven percent on the security deposit to the tenant. If he or she fails to comply within 30 days after notice from the tenant, the tenant may require the security deposit to be applied to the current rent payment.
- Landlords are also prohibited from increasing the amount of the security deposit by more than ten percent a year.

"For too long, unscrupulous landlords have exploited their tenants' security deposits, imposing arbitrary administrative fees, and giving tenants little notice of the location or handling of their money," said Senator Byron Baer, D-Bergen, the Democratic Chairman of the Senate Commerce Committee. "Ultimately, these landlords have forgotten that the security deposits still belong to the tenants, and the signing of this bill today should stand to remind them of this fact."

"Tenants have a right to know how their security deposits are being managed, and this new law will make sure that their rights are met," said Senator Joseph Coniglio, D-Bergen, a cosponsor and Democratic Chairman of the Senate State Government Committee. "Security deposits are intended to pay for damages incurred in an apartment, and should not be seen as a landlord's personal piggy bank."

"Quite often, tenants find themselves in a position where they're only returned a portion of their security deposits -- even if they leave their apartments in an immaculate condition," said Assemblyman John McKeon, D-Essex. "The new law will protect tenants from the handful of landlords out there who would take advantage of them."

Since taking office the Governor has pledged to fix the problems that have plagued New Jersey for far too long. He has followed through on that commitment, addressing problems with the Department of Motor Vehicles, EZPASS, and DYFS, while successfully balancing three budgets with record deficits that culminated after years of fiscal irresponsibility.

"By and large most tenants are good, responsible citizens," said McGreevey. "They do nothing wrong, yet are penalized in so many ways. Today we are putting an end to that. We gave this law teeth so that tenants aren't left at the mercy of their landlord."



State of New Jersey Governor's Office

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