



Office of the City Clerk

City Hall
121 N. LaSalle St.
Room 107
Chicago, IL 60602
www.chicityclerk.com

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Final action:

Title: Amendment of Municipal Code Title 5 regarding awarding damages for inaccurate calculation of security deposits under Landlord Tenant Ordinance

Sponsors: Reilly, Brendan, Hairston, Leslie A., Smith, Michele, Tunney, Thomas, O'Connor, Patrick, Arena, John, Brookins, Jr., Howard, Burns, William D., Napolitano, Anthony V., Hopkins, Brian, Dowell, Pat, Laurino, Margaret, Cappleman, James

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Date	Ver.	Action By	Action	Result
5/29/2019	1	City Council	Failed to Pass	
9/24/2015	1	City Council	Referred	

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

Section 1. Title 5 of the Municipal Code of the Chicago is hereby amended by adding and deleting the following sections to Chapter 5-12-080 as follows.

5-12-080 Security deposits.

a) (1) A landlord shall hold all security deposits received by him in a federally Insured interest bearing account in a bank, savings and loan association or other financial institution located in the State of Illinois. A security deposit and interest due thereon shall continue to be the property of the tenant making such deposit, shall not be commingled with the assets of the landlord, and shall not be subject to the claims of any creditor of the landlord or of the landlord's successors in interest, including a foreclosing mortgagee or trustee in bankruptcy.

2) Notwithstanding subsection (a)(1), a landlord may accept the payment of the first month's rent and security deposit in one check or one electronic funds transfer, and deposit the check or electronic funds transfer into one account, if within 5 business days of the acceptance of the check or electronic transfer, the landlord transfers the amount of the security deposit into a separate account that complies with subsection (a)(1).

3) The name and address of the financial institution where the security deposit will be deposited shall be clearly and conspicuously disclosed in the written rental agreement signed by the tenant. If no written rental agreement is provided, the landlord shall, within 14 days of receipt of the security deposit, notify the tenant in writing of the name and address of the financial institution where the security deposit was deposited.

If, during the pendency of the rental agreement, a security deposit is transferred from one financial institution to another, the landlord shall, within 14 days of such transfer, notify the tenant in writing of the name and address of the new financial institution.

4) Notwithstanding subsection (a)(1), a landlord shall not be considered to be commingling the security deposits with the

landlord's assets if there is excess interest in the account in which the security deposits are deposited. "Excess interest" means the amount of money in excess of the total amount of security deposits deposited into the account plus any interest due thereon.

b) (1) Except as provided for in subsection (b)(2), any landlord who receives a security deposit from a tenant or prospective tenant shall give said tenant or prospective tenant at the time of receiving such security deposit a receipt indicating the amount of such security deposit, the name of the person receiving it and, in the case of the agent, the name of the landlord for whom such security deposit is received, the date on which it is received, and a description of the dwelling unit. The receipt shall be signed by the person receiving the security deposit. Failure to comply with this subsection shall entitle the tenant to immediate return of security deposit.

(2) Upon payment of the security deposit by means of an electronic funds transfer, the landlord shall give the tenant a receipt that complies with subsection (b)(1), or an electronic receipt that acknowledges the receipt of the security deposit. The electronic receipt shall set forth the date of the receipt of the security deposit, the amount of the deposit, a description of the dwelling unit and an electronic or digital signature, as those terms are defined in 5 ILCS 175/5-105, of the person receiving the deposit.

c) A landlord who holds a security deposit or prepaid rent pursuant to this section for more than six months shall pay interest to the tenant accruing from the beginning date of the rental term specified in the rental agreement at the rate determined in accordance with Section 5-12-081 for the year in which the rental agreement was entered into. The landlord shall, within 30 days after the end of each 12-month rental period, pay to the tenant any interest, by cash or credit to be applied to the rent due.

d) The landlord shall, within 45 days after the date that the tenant vacates the dwelling unit or within seven days after the date that the tenant provides notice of termination of the rental agreement pursuant to Section 5-12-110(g), return to the tenant the security deposit or any balance thereof and the required interest thereon; provided, however, that the landlord, or successor landlord, may deduct from such security deposit or interest due thereon for the following:

1) Any unpaid rent which has not been validly withheld or deducted pursuant to state or federal law or local ordinance; and

2) A reasonable amount necessary to repair any damage caused to the premises by the tenant or any person under the tenant's control or on the premises with the tenant's consent, reasonable wear and tear excluded. In case of such damage, the landlord shall deliver or mail to the last known address of the tenant within 30 days an itemized statement of the damages allegedly caused to the premises and the estimated or actual cost for repairing or replacing each item on that statement, attaching copies of the paid receipts for the repair or replacement. If estimated cost is given, the landlord shall furnish the tenant with copies of paid receipts or a certification of actual costs of repairs of damage if the work was performed by the landlord's employees within 30 days from the date the statement showing estimated cost was furnished to the tenant.

e) In the event of a sale, lease, transfer of ownership or control or other direct or indirect disposition of residential real property by a landlord who has received a security deposit or prepaid rent from a tenant, the successor landlord of such property shall be liable to that tenant for any security deposit, including statutory interest, or prepaid rent which the tenant has paid to the transferor.

The successor landlord shall, within 14 days from the date of such transfer, notify the tenant who made such security deposit by delivering or mailing to the tenant's last known address that such security deposit was transferred to the successor landlord and that the successor landlord is holding said security deposit. Such notice shall also contain the successor landlord's name, business address, and business telephone number of the successor landlord's agent, if any. The notice shall be in writing.

The transferor shall remain jointly and severally liable with the successor landlord to the tenant for such security deposit or prepaid rent, unless and until such transferor transfers said security deposit or prepaid rent to the successor landlord and provides notice, in writing, to the tenant of such transfer of said security deposit or prepaid rent, specifying the name, business address and business telephone number of the successor landlord or his agent within ten days of said transfer.

(f) (1) Subject to subsection (f)(2), if the landlord fails to comply with any provision of Section 5-12-080(a) - (e), the tenant shall may be awarded damages in an amount equal to two times the security deposit plus interest at a rate determined in accordance with Section 5-12-081. This subsection does not preclude the tenant from recovering other damages to which he may be entitled under this chapter.

(2) If a landlord pays the interest on a security deposit or prepaid rent within the 30-day period provided for in subsection (c), or within the 45-day period provided for in subsection (d), whichever is applicable, but the amount of interest is deficient, the landlord shall not be liable for damages under subsection (f)(2) unless:

- A) the tenant gives written notice to the landlord that the amount of the interest returned was deficient;
and
- B) within fourteen days of the receipt of the notice, the landlord fails to either:
 - (i) pay to the tenant the correct amount of interest due plus \$50.00; or
 - (ii) provide to the tenant a written response which sets forth an explanation of how the interest paid was calculated.

If the tenant disagrees with the calculation of the interest, as set forth in the written response, the tenant may bring a cause of action in a court of competent jurisdiction challenging the correctness of the written response. If the court determines that the Interest calculation was not accurate, the tenant shall may be awarded damages in an amount equal to two times the security deposit plus interest at a rate determined in accordance with Section 5-12-081.

Section 2. This ordinance shall take effect 10 days after passage and publication.