

STATE SECURITY DEPOSIT LAWS

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IREM® Legislative White Paper



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State Security Deposit Laws

Laws governing the collection, handling, and return of rental security deposits vary widely from state to state. Some states, like Alabama have no statute at all, while others have statutes that are quite extensive, governing where the deposit must be kept, the rate of interest to be paid on the deposit, how claims are to be made by landlords on the deposit, and how much a landlord may collect as a deposit. Residential real estate managers must be aware of their legal obligations when collecting security deposits. Failure to comply with these laws may leave real estate managers vulnerable to lawsuits by tenants and unable to make any claims upon the security deposit if a tenant does not live up to their obligations under the lease or damages the rental unit.

Common Provisions in Security Deposit Laws

Some of the common provisions found in security deposit laws across the country are highlighted below. These vary from state-to-state, and are sometimes pre-empted by municipal ordinances, which can be far stricter than the state's requirements. These local ordinances are outside of the limited scope of this paper. IREM legislative staff will, however, be happy to assist members with questions about municipal ordinances upon request.

Limits on the Size of Deposits

Many states place limits upon the amount a landlord can collect as a security deposit, usually equivalent to an amount between one and two months' rent. Some states allow a landlord to collect an additional deposit if the apartment is furnished or if the tenant will be keeping a pet in the unit. For information on state laws providing statutory limits on the amount a landlord may charge for security deposits, see the attached chart.

Return of Deposit

Nearly all states specify a time frame within which a landlord must make a claim upon the deposit or the deposit must be returned to the tenant. Generally the tenant must be notified of any deductions and the balance of the deposit must be returned within thirty days, though the time limits can be as short as ten days and as long as sixty days, depending upon the state's particular statute. In many states, the landlord is required to provide a full and complete accounting of charges levied against the security deposit within the statutory deadline. To read state deposit limits, see the attached chart.

Deductions

As a general rule, deductions may be taken from a tenant's security deposit in order to compensate the landlord for unpaid rent or utility bills and damage to the unit beyond normal wear and tear. Deductions must be itemized, listing the reason for the deduction and the specific amount being withheld by the landlord. In some states, this itemization must be accompanied by receipts for all materials and labor. Another common provision regarding deductions is a requirement that landlords provide the tenant with a checklist detailing pre-existing damage to the unit at the time of occupancy that will serve as the basis determining damage to the unit caused by the tenant.

Depository Requirements

Many states have specific requirements for where a deposit is kept during tenancy. In most cases, it must be kept in a bank within the state and the tenant must be notified of the location of the deposit. Some states also require that a landlord pay the tenant interest on the security deposit. Often the rate that must be paid is the rate on a passbook savings account in the state, although many states will specify a different rate to be paid, as well as when interest must be distributed to tenants (usually annually or at the end of tenancy). Review the attached chart for more information on individual state laws.

Administrative Fees

A less common provision allows landlords to deduct an administrative fee from the deposit and accrued interest before returning it to the tenant. This is usually set at 1% of the security deposit.

Several states and localities prohibit administrative fees from being deducted. In California, for instance, landlords may not deduct administrative fees from tenants' security deposits. The Governor of New Jersey signed legislation into law in October, 2003, eliminating landlords' right to charge an administration fee. The previous law allowed a yearly 1% charge on the security deposit to manage the account.

Researching State and Local Laws

IREM legislative staff is available to assist IREM members in researching their state laws and local ordinances. IREM legislative staff may be contacted by email at legislation@irem.org, or by calling IREM toll-free at (800) 837-0706 and request the Legislative Liaison.

Attachment 1: State-by State Comparison of Security Deposit Laws

| State | Deposit Limit | Walk-Through Inspection Required? | Return of Deposit | Deposit Requirements | Interest Payments Made to Tenant | Other | Statute |
|--------------------|--|-----------------------------------|--|--|---|--|---|
| Alabama | One month rent and reasonable amounts for pets, changes to premises, increased liability risk | No | Within 35 days after termination of tenancy | No | | | Ala. Code §§ Sec. 35-9A-201 |
| Alaska | Two months' rent, except for units renting for more than \$2,000. | No | Within 14 days if the tenant gives proper notice; otherwise, 30 days. | Trust account in a bank, savings and loan association, or licensed escrow agent, where practicable. Account does not have to earn interest. Any interest earned belongs to the tenant, unless the tenant agrees in writing that the interest is payable to the property owner. | Yes | | AK Code Sec. 34.03.070 |
| Arizona | One and a half month's rent, unless the tenant agrees to pay more. | Yes | 14 days | | | | Ariz. Rev. Stat. ARS 33-1321 |
| Arkansas | Two months' rent | No | 60 days | | | Does not apply where owners own five or fewer units in less management, including the collection of rent, is performed by a third party for a fee. | Ark. Code Ann. §§ 18-16-101 to -306, -501 to -508 |
| California | Two months' rent for an unfurnished unit, three months' rent for a furnished unit | Yes | 21 days | | | Tenant must be notified of their right to have the unit inspected prior to move-out. | Cal. Civ. Code Sec 1950.5 |
| Colorado | No statutory limit. | No | One month, unless lease specifies longer period of time (no more than 60 days); 72 hours (not counting weekends or holidays) if a hazardous condition involving gas equipment requires tenant to vacate. | | | | Colo. Rev. Stat. CRS Sec. 38-12-103 |
| Connecticut | Two months' rent (tenants under 62 years of age); one month's rent (tenants 62 years of age or older). | No | 30 days or 15 days after written notice of forwarding address - whichever is later | Escrow account in a financial institution. | Annually on the anniversary of the lease and at the termination of tenancy. | | Conn. Statutes Chap 831 Sec. Sec. 47a-21 |

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| Delaware | One month's rent for leases of 1 year or more (any more than one month's rent must be returned after first year); no limit for month-to-month leases of less than 1 year's duration. | | 20 days; tenant must object within 10 days | Escrow bank account in a federally-insured banking institution | | | Del Stat. Title 25, Chap 55 § 5514 |
| District of Columbia | One month's rent | No | 45 days | Interest-bearing escrow account in DC insured by state or federal government. | Yes, at the termination of tenancy. | | D.C. Code Ann. §§ 42-3201 to -3610; D.C. Mun. Regs., tit. 14, §§ 300 to 311 |
| Florida | No statutory limit. | No | Within 15 to 30 days depending on whether tenant disputes deductions. | Account in a Florida banking institution. Landlord may also post a surety bond. | Yes, must be paid annually and at the end of the tenancy. Interest does not need to be paid if tenant wrongfully terminates the lease early. | | Fla. Stat. Ann. Title VI, Sec 83.49 |
| Georgia | No statutory limit | Yes | One month | Landlords must keep deposit in separate account or obtain surety bond. | | Does not apply to owners of 10 or fewer units unless unit is managed by a third party for a fee. Landlord must inspect unit within 3 days of termination of tenancy. Tenant shall have 5 days from termination of occupancy to inspect unit. Both must sign list of damage to unit. | Ga. Code Ann. §§ 44-7-1 to -81 |
| Hawaii | One month's rent | No | 14 days | | | | Haw. Rev. Stat. §§ 521-1 to -78 |
| Idaho | No statutory limit. | No | 21 days, or up to 30 days by prior agreement. | | | | Idaho Statutes Title 6, Chap. 3, Sec. 6-321 |
| Illinois | No statutory limit. | No | Landlord is to furnish a written statement itemizing deductions within 30 days and return balance of deposit within 45 days. | | Within 5 days of each 12 month rental period, by cash or credit to rent, unless tenant is in default. | Does not apply to buildings with 5 or fewer units. | 735 Ill. Comp. Stat. §§ 5/9-201 to 321 and 765 Ill. Comp. Stat. §§ 705/0.01 to 742/30 |
| Indiana | No statutory limit. | No | 45 days | | | | Ind. Code Ann. §§ 32-31-1-1 to -8-6 |
| Iowa | Two months' rent | No | 30 days | Federally insured bank, savings and loan, or credit union. | Interest earned in the first five years of tenancy is the property of the landlord. | | Iowa Code Title XIV Sec. 562A12 |
| Kansas | Two months' rent | No | 30 days | Federally insured bank, savings and loan, or credit union. | | | Kan. Stat. Ann. §§ 58-2501 to -2573 |

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| Kentucky | No statutory limit. | Yes, both at the beginning and end of tenancy. | Within 30 and if tenant fails to claim refund or dispute deductions, landlord may keep entire deposit. | State or federally regulated lending institution | | | Ky. KRS Sec 383.580 |
| Louisiana | No statutory limit. | No | One month, but only if there was no wrongful termination of lease by tenant. | | | | La. Rev. Stat. Ann. §§ 9:3251 to - :3261; La. Civ. Code Ann. art. 2668 to 2729 |
| Maine | Two months' rent | No | Within 30 days if there is a written lease and within 21 days in the case of tenancy at will. | Account in a bank or financial institution. | | Does not apply to owner-occupied buildings with 5 or fewer units. | Maine. MRS 14 Sec. 6031 et seq. |
| Maryland | Two months' rent | Yes | 45 days | Account in a federally insured financial institution which does business in the state, an insured certificate of deposit in a federally insured financial institution, or securities issued by the federal or state government. | Within 45 days of the end of tenancy. | If the landlord, without good reason, fails to return any part of the security deposit within 45 days, he is liable to the tenant for up to three times the withheld amount of the security deposit plus reasonable attorney's fees. | Maryland Code, Real Property, Sec. 8-203 |
| Massachusetts | One month's rent | Yes | 30 days | Interest-bearing bank account, without comingling | Annually and at the end of tenancy. | | MGL Chap. 186, Sec. 15A |
| Michigan | One and a half month's rent | Yes | 30 days | Regulated financial institution. | | Once a security deposit is placed in a financial institution, the landlord may use those funds as long as he or she deposits a cash bond with the secretary of state. | MCL Sec. 554.601, et Seq. |
| Minnesota | No statutory limit. | No | Three weeks. However, if tenant must leave due to building condemnation, then 5 days. | | At termination of tenancy. | | Minn. Stat. Ann. §§ 504B.001 to .471 |
| Mississippi | No statutory limit. | No | 45 days | | | | Miss. Code Sec. 89-8-21 |
| Missouri | Two months' rent | No | 30 days | | | | Mo. Rev. Stat. §§ 441.005 to .880; and §§ 535.150 to .300 |
| Montana | No statutory limit. | Yes | Within 10 days if there are no deductions. Otherwise, 30 days. | | | | Mont. Code Ann. §§ 70-24-101 to - 26-110 |
| Nebraska | One month's rent. Additional 1/4 month's rent allowed for pets. | No | 14 days after once tenant has made demand for deposit and provides mailing | | | | Neb. Rev. Stat. §§ 76-1401 to - 1449 |

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| Nevada | Three months' rent | No | 30 days | | | | Nevada RS 118A-240 & foll. |
| New Hampshire | One month's rent if landlord owns six or more units, if they own fewer than six units there is no limit. | No | 30 days | A bank, savings and loan, or credit union organized under state law or a bond in the amount of all security deposits held written by a New Hampshire company and posted with the clerk of the city or town in which the premises are located. | Yes, after one year. | Does not apply to a person who rents a single family residence and owns on other rental property or who rents or leases rental units in an owner-occupied building of five units or less is not covered by the act. | New Hampshire RSA 540-A |
| New Jersey | One and a half month's rent | No | Within 30 days. However, in case of fire, flood, condemnation, or evacuation, then 5 days. | An insured money market fund containing only investments maturing in one year or less or an account in a federally insured bank, savings bank or savings and loan association in the state with a which variable interest rate. | | | New Jersey NJSA:46-19 |
| New Mexico | One month's rent, and if it is more than one month's rent, tenant will receive interest. If the lease term is less than one year, than there is a one month maximum. | No | 30 days | | | | New Mexico Statutes Sec. 48-8-18 |
| New York | One month's rent unless the until was initially rented with a two month deposit. | Depends on local borough or county rent office | Depends on local borough or county rent office | A bank within the state. If the building contains 6 or more units, the deposit must be placed in an interest-bearing account. | Tenant may choose to receive interest payments as an annual credit to rent, an annual lump-sum payment, or a lump-sum payment at the end of tenancy. | 1% administrative fee allowed if the deposit is placed in an interest-bearing account. | N.Y. Article 7, Title 1 Rent & Eviction Regs Sec. 2105.5 |
| North Carolina | Two weeks' rent for week-to-week tenancies, one-and-a-half months' rent for month-to-month tenancies, two months' rent for tenancies longer than two months. | | 30 days | A licensed and insured bank or savings institution in the state or outside the state if the landlord provides the tenant with adequate bond in the amount of the deposit. Landlord may obtain a bond form an insurance company licensed in North Carolina instead of placing deposits in an account. | | | N.C. Gen. Stat. §§ 42-1 to 42-14.2; 42-25.6 to 42-76 |
| North Dakota | One month's rent, except if the tenant has a pet the deposit may not exceed \$1,500. | | 30 days | Federally insured, interest-bearing checking or savings account. | Termination of lease. | | N.D. Cent. Code §§ 47-16-01 to -41 |

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| Ohio | No statutory limit. | No | 30 days | | If the security deposit is more than one month's rent and the tenant stays more than six months, the landlord must pay interest. | | Ohio Rev. Code Ann. §§ 5321.01 to .19 |
| Oklahoma | No statutory limit. | No | 30 days | Escrow account in a federally insured financial institution within the state. | | Security deposit must be returned within 30 days of the termination of lease. If tenant fails to demand in writing the return of the deposit within six months, the deposit becomes the landlord's money. | Okla. Stat. Ann. tit. 41, §§ 101 to 136 |
| Oregon | No statutory limit. | No | 31 days | | | | Or. Rev. Stat. §§ 90.100 to 91.225 |
| Pennsylvania | Two months' rent during the first year of tenancy, one month's rent for the second and subsequent years. After five years tenancy, increases in rent may not be accompanied by equivalent increases in the security deposit. | No | 30 days | Escrow account in a federally or state regulated institution. | If held for more than two years. | 1% administrative fee allowed if deposit is placed in an interest-bearing escrow savings account. Security deposit must be returned within 30 days and if that is not done, the tenant can collect double the amount that would have been due after any damages were deducted. | 68 Pa. Cons. Stat. Ann. §§ 250.101 to .510-B, §§ 399.1 to .18 |
| Rhode Island | One month's rent | No | 20 days | | | | R.I. Gen. Laws §§ 34-18-1 to -57 |
| South Carolina | No statutory limit. | No | 30 days | | | | S.C. Code Ann. §§ 27-40-10 to -940 |
| South Dakota | One month's rent except where special conditions pose a danger to the maintenance of the premises. | No | 14 days | | | Within 45 days and upon request of tenant, landlord must provide itemized accounting of all deductions. | S.D. Codified Laws Ann. §§ 43-32-1 to -30 |
| Tennessee | No statutory limit. | Yes | 10 days | State or federally regulated bank or lending institution | | | Tenn. Code Ann. §§ 66-28-101 to -521 |
| Texas | No statutory limit. | No | 30 days | | | | Tex. Prop. Code Ann. §§ 91.001 to 92.354 |
| Utah | No statutory limit. | No | Within 30 days, or within 15 days of receiving tenant's forwarding address, | | | | Utah Code Ann. §§ 57-17-1 to -5, -22-1 to -6 |

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| | | | whichever is later. | | | |
| Vermont | No statutory limit. | No | 14 days | In Burlington, security deposits must be placed into an interest-bearing account. | In the cities of Burlington and Barre, tenants are entitled to the interest. | Vt. Stat Ann. tit. 9, §§ 4451 to 4468 |
| Virginia | Two months' rent | Yes | 45 days | | At the termination of tenancy if the deposit has been held for at least 13 months. | Va. Code Ann. §§ 55-218.1 to -248.40 |
| Washington | No statutory limit. | Yes | 14 days | Bank, savings and loan, mutual savings bank, or escrow agent in the state. | Unless otherwise agreed, landlord is entitled to interest payments. | Wash. Rev. Code Ann. §§ 59.04.010 to .900, .18.010 to .911 |
| West Virginia | No statutory limit. | No | No statutory deadline. | | | W. Va. Code §§ 37-6-1 to -30 |
| Wisconsin | No statutory limit. | Yes | 21 days | Security deposits must be kept in a trust account only if they are held by the broker in a brokerage account. | Payment of interest to tenants is not required. | Wis. Stat. Ann. §§ 704.01-.50; Wis. Admin. Code 134.01 to .10 |
| Wyoming | No statutory limit. | No | Within 30 days, or within 15 days of receiving tenant's forwarding address, whichever is later. Utility deposit must be returned within 10-45 days, depending on the circumstance. | | | Wyo. Stat. §§ 1-21-1201 to -1211; 34-2-128 to -129 |