

ASSEMBLY, No. 1187

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman DALTON

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

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

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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 or
10 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
24 fund 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.§80a-1 et seq.) whose shares are registered under the
27 "Securities Act of 1933," 48 Stat.74 (15 U.S.C.§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,

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

Matter underlined thus is new matter.

1 which is similar to the average rate of interest on active
2 interest-bearing money market transaction accounts paid by the bank
3 or association under 12 C.F.R. Part 1204.108, or equal to similar
4 accounts of an investment company described in paragraph (1) of this
5 subsection[, less an amount not to exceed 1% per annum of the
6 amount so invested or deposited for the costs of servicing and
7 processing the account].

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

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

26 c. The person investing the security deposit pursuant to subsection
27 a. or b. of this section shall [thereupon] notify in writing within 30
28 days of the receipt of the security deposit from the tenant, or within 30
29 days of any change of investment, each of the persons making such
30 security deposit or advance, giving the name and address of the
31 investment company, State or federally chartered bank, savings bank
32 or savings and loan association in which the deposit or investment of
33 security money is made, and the amount of such deposit or investment.

34 All of the money so deposited or advanced may be deposited or
35 invested by the person receiving the same in one interest-bearing or
36 dividend yielding account as long as he complies with all the other
37 requirements of this act.

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

1 chartered bank, savings bank or savings and loan association,
2 hereinafter referred to as tenant's portion, shall belong to the person
3 making the deposit or advance and shall, at the tenant's discretion, be
4 permitted to compound to the benefit of the tenant, or be paid directly
5 to the tenant in cash by December 31 of each year, or be credited
6 toward the payment of rent due on the renewal or anniversary of [said]
7 the tenant's lease.

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

24 d. The provisions of this section requiring that the security
25 advanced be deposited or invested in a money market fund, or in an
26 interest bearing account in a State or federally chartered bank, savings
27 bank or savings and loan association shall not apply to any security
28 advanced on a contract, lease or license agreement for the seasonal use
29 or rental of real property. For purposes of this paragraph "seasonal
30 use or rental" means use or rental for a term of not more than 60
31 consecutive days for residential purposes by a person having a
32 permanent place of residence elsewhere. "Seasonal use or rental" does
33 not mean use or rental of living quarters for seasonal, temporary or
34 migrant farm workers in connection with any work or place where
35 work is being performed. The landlord shall have the burden of
36 proving that the use or rental of the residential property is seasonal.
37 (cf: P.L.1990, c.100, s.1)

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39 2. This act shall take effect on the first day of the third month after
40 enactment.

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STATEMENT

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45 This bill provides that subsequent to the initial notification upon
46 receiving the security deposit, a landlord must notify a tenant of any

1 change in the nature or location of a security deposit investment. If
2 the landlord fails to give such notice, or any other notice, payment or
3 credit required by the statute, the tenant may demand that the full
4 amount of the deposit, plus interest at the annual rate of seven percent
5 be credited toward the rent due.

6 Further, the bill clarifies the option of tenants to decide if they
7 prefer their interest to accrue, be paid to them in cash, or be credited
8 toward payment of rent due.

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Specifies landlord obligations in handling tenant security deposits.