

P.L. 1997, CHAPTER 310, *approved January 8, 1998*

Assembly, No. 1831

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

3

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 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. { 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
28 the only investments of which fund are instruments maturing in one
29 year 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

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

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

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

25 The person investing the security deposit pursuant to subsection a.
26 or b. of this section shall thereupon notify in writing each of the
27 persons making such security deposit or advance, giving the name and
28 address of the investment company, State or federally chartered bank,
29 savings bank or savings and loan association in which the deposit or
30 investment of security money is made, and the amount of such deposit
31 or investment.

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

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

1 making the deposit or advance and shall be permitted to compound to
2 the benefit of the tenant, or be paid to the tenant in cash, or be
3 credited toward the payment of rent due on the renewal or anniversary
4 of said tenant's lease.

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

19 The provisions of this section requiring that the security advanced
20 be deposited or invested in a money market fund, or in an interest
21 bearing account in a State or federally chartered bank, savings bank or
22 savings and loan association shall not apply to any security advanced
23 on a contract, lease or license agreement for the seasonal use or rental
24 of real property. For purposes of this paragraph "seasonal use or
25 rental" means use or rental for a term of not more than [60] 125
26 consecutive days for residential purposes by a person having a
27 permanent place of residence elsewhere. "Seasonal use or rental" does
28 not mean use or rental of living quarters for seasonal, temporary or
29 migrant farm workers in connection with any work or place where
30 work is being performed. The landlord shall have the burden of
31 proving that the use or rental of the residential property is seasonal.
32 (cf: P.L.1990, c.100, s.1)

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34 2. This act shall take effect immediately.

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STATEMENT

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39 Section 1 of P.L.1967, c.265 (C.46:8-19) exempts security deposits
40 on a contract, lease or license agreement for the seasonal use or rental
41 of real property from the requirement that security deposits be
42 deposited or invested in a money market fund or an interest bearing
43 account in a State or federally chartered bank, savings bank or savings
44 and loan association.

45 This bill would change the definition of the term "seasonal use or
46 rental" in that section to mean use or rental of real property for not

1 more than 125 consecutive days for residential purposes by a person
2 who has a permanent place of residence elsewhere. Under current law,
3 that term means such use for not more than 60 consecutive days.

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8 Changes definition of "seasonal use or rental" for purposes of security
9 deposit.