

By Mr. Asiaf of Brockton, petition of Peter George Asiaf that provision be made for the protection of security deposits paid by tenants of residential property. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Nine.

AN ACT PROVIDING FOR THE PROTECTION OF SECURITY DEPOSITS PAID BY TENANTS OF RESIDENTIAL PROPERTY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 15B of Chapter 186 of the General Laws is hereby amended by inserting after the first paragraph the following new paragraph: —

Unless and until properly claimed by the landlord pursuant to the provisions of this section, a security deposit given to a landlord of residential real property shall remain the property of the tenant and shall not be subject to the claims of creditors, including a foreclosing mortgagee or trustee in bankruptcy, of the landlord or of the landlord's successor in interest.

SECTION 2. The fourth paragraph of said Section 15B of Chapter 186, as inserted by Section 1 of Chapter 639 of the Acts of 1972, is amended by striking the first sentence and substituting the following sentence: — If the landlord fails to return to the tenant such deposit or the balance thereof or to itemize damages as provided herein, he shall be liable to the tenant for damages in an amount equal to twice the amount of such security deposit or balance due thereof as provided herein, plus interest at the rate of five percent from the date which the payment became due, plus costs of suit, including a reasonable attorney's fee. Any landlord who fails to return to the tenant such deposit or the balance thereof or to itemize damages as provided herein, shall be barred in any

13 suit commenced by or against such tenant from seeking to recover
14 any damages which the landlord would have been otherwise per-
15 mitted to deduct pursuant to this section.

1 SECTION 3. Said fourth paragraph of Section 15B of Chapter
2 186 is amended by inserting after the third sentence the following
3 sentence: — Unless the landlord has returned to the tenant the
4 security deposit or the balance thereof as provided herein prior to a
5 conveyance, any successor in interest to the landlord shall succeed
6 to the landlord's rights and obligations regarding security deposits
7 under this section.

1 SECTION 4 Said Chapter 186 is hereby further amended by
2 adding a new Section 15G as follows: — Unless and until properly
3 claimed by the landlord pursuant to the provisions of Section 15B,
4 a security deposit given to a landlord of residential real property
5 shall not be mingled with the property of the landlord or any other
6 person, except that the deposit may be placed in an account
7 established for holding the landlord's security deposits in a regu-
8 lated financial institution, and the security deposit shall not be
9 hypothecated, pledged, or in any other manner used by the land-
10 lord or any other person. If a landlord violates this section, he shall
11 be liable in damages in an amount equal to twice the amount of the
12 security deposit plus costs of suit, including a reasonable attor-
13 ney's fee. Failure to return the security deposit or any balance
14 thereof or to itemize deductions for damage within the time period
15 and in the manner specified in Section 15B shall create a presump-
16 tion that this section has been violated. Such presumption shall be
17 rebutted only upon a showing by a preponderance of the evidence
18 that this section has not been violated.

1 SECTION 5. The provisions of Section 15G of Chapter 186 of
2 the General Laws, inserted by Section 4 of this act, shall apply to
3 security deposits received on or after January 1, 1981.