

HOUSE No. 519

By Mr. McCarthy of Peabody, petition of Peter C. McCarthy relative to regulating and controlling security deposits of residential tenants. Commerce and Labor.

The Commonwealth of Massachusetts

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

AN ACT TO REGULATE AND CONTROL SECURITY DEPOSITS OF RESIDENTIAL TENANTS.

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

1 Chapter 186 of the General Laws is hereby amended by
2 inserting after section 18 the following eight sections:—

3 *Section 19.* "Security Deposit" for the purpose of this
4 section shall mean an amount of money that a tenant of a
5 leasehold or a tenant at will for residential purposes, has to
6 deposit with the landlord of said leasehold or said landlord's
7 agent as security for the performance of the rental terms or to
8 guarantee payment for any damage the tenant may do to the
9 premises. In addition, any amount paid to the landlord for
10 other than payment of the rent for the next rental period
11 shall be deemed a security deposit.

12 *Section 20.* Security deposits collected from a tenant by a
13 landlord or his agent must be deposited by the landlord in a
14 banking institution or savings and loan association insured
15 by the Federal government, in a special escrow savings
16 account.

17 *Section 21.* Security deposits shall continue to be the
18 property of the tenant and shall not be mingled with the
19 monies of the landlord.

20 *Section 22.* A landlord may make a withdrawal from the
21 account required by section twenty of an amount equal to a
22 specific security deposit with its *pro rata* interest earned for
23 the following reasons only:

24 (a) by an order of a court of the commonwealth.

25 (b) to return the entire security deposit plus interest to the
26 tenant less reasonable administrative expenses because of a
27 termination of the tenancy.

28 (c) to apply, subject to the provisions of section twenty-
29 three the security deposit plus interest earned on said deposit
30 to costs for repairs required because of damage to the
31 leasehold or the dwelling caused by the tenant and for which
32 the tenant was responsible. A landlord may withdraw the
33 security deposit and accrued interest as authorized by this
34 subsection only after the termination of the tenancy or upon
35 surrender and acceptance of the leasehold premises.

36 (d) to apply the security deposit as rent if the terms of the
37 lease so provide, and to return the entire interest earned on
38 said security deposit to the tenant.

39 *Section 23.* Repayment of the security deposit shall be
40 made as follows:—

41 (a) If there are no damages to the premises for which the
42 tenant is liable, the landlord shall return the amount as
43 prescribed in section twenty-two (b) to the tenant within
44 thirty days of the termination of the lease or upon surrender
45 and acceptance of the leasehold premises whichever occurs
46 first.

47 (b) If there are damages to the leasehold, the landlord
48 shall within thirty days of termination of a lease or upon
49 surrender and acceptance of the leasehold premises, which-
50 ever first occurs, provide a tenant with a written list of all
51 damages to the leasehold premises for which the landlord
52 claims the tenant is liable. Delivery of the list shall be
53 accompanied by payment of the difference between the
54 security deposit plus interest and the actual amount of
55 damages to the leasehold premises caused by the tenant.
56 Nothing in this section shall preclude the landlord from
57 refusing to return the escrow fund plus interest for non-
58 payment of rent or for the breach of any other condition in
59 the lease by the tenant.

60 (c) If the landlord wrongfully fails to pay the tenant the
61 amount due him under sections twenty-two and twenty-three
62 (a) and (b) above within thirty days after termination of the
63 lease or surrender and acceptance of the leasehold premises,
64 whichever first occurs, the landlord shall be liable for double
65 the amount of the sum deposited in escrow plus interest as
66 determined by a district or superior court having jurisdic-
67 tion.

68 (d) The tenant may bring an action for the return of the
69 security deposit and interest. In such action, the burden of
70 proof of actual damages caused by the tenant to the leasehold
71 shall be on the landlord.

72 (e) Any landlord who fails to provide a written list within
73 thirty days as required in subsection (b) shall forfeit all
74 rights to withhold any portion of sums held in escrow and all
75 interest earned or to bring a suit against the tenant for
76 damages to the leasehold premises.

77 *Section 24.* Any provision of a lease or contract which
78 purports to waive any provision of this section is void.

79 *Section 25.* No landlord shall require a security deposit in
80 excess of one month's rent.

81 *Section 26.* Any person who violates the provisions of
82 section twenty-five shall be punished by a fine of two
83 hundred dollars or the amount of the wrongfully held deposit,
84 whichever is greater, to be collected by the attorney general
85 in a civil action.

