

By Mr. Serlin of Boston, petition of I. Edward Serlin and another for legislation to regulate security deposits collected from a tenant by a landlord or his agent. Commerce and Labor.

The Commonwealth of Massachusetts

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

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 as most recently amended
2 by section 2 of chapter 420 of the acts of 1967 is hereby
3 further amended by inserting after section 17 the following
4 sections:—

5 *Section 18.* "Security Deposit" for the purpose of this
6 section shall mean an amount of money that a tenant of a
7 leasehold or a tenant at will for residential purposes, has to
8 deposit with the landlord of said leasehold or said landlord's
9 agent as security for the performance of the rental terms or to
10 guarantee payment for any damage the tenant may do to the
11 premises. In addition, any amount paid to the landlord for
12 other than payment of the rent for the next rental period
13 shall be deemed a security deposit.

14 *Section 18A.* Security deposits collected from a tenant by a
15 landlord or his agent must be deposited by the landlord in a
16 banking institution or savings and loan association insured by
17 the Federal government, in a special escrow savings
18 account.

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

22 *Section 18C.* A landlord may make a withdrawal from the
23 account required by section eighteen A of this chapter of an
24 amount equal to a specific security deposit with its *pro rata*
25 interest earned for the following reasons only:

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

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

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

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

41 *Section 18D.* Repayment of the security deposit shall be
42 made as follows:—

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

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

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

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

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

79 *Section 18E.* Any provision of a lease or contract which
80 purports to waive any provision of this section is void.

81 *Section 18F.* No landlord shall require a security deposit in
82 excess of one month's rent.

83 *Section 18G.* Any person who violates the provisions of
84 section eighteen F of this chapter shall be punished by a fine
85 of two hundred dollars or the amount of the wrongfully held
86 deposit, whichever is greater, to be collected by the attorney
87 general in a civil action.

