

HOUSE No. 3814

The Commonwealth of Massachusetts

By Mr. Simons of Montague, petition relative to the receipt and return of tenants' security deposits by landlords. Commerce and Labor.

Petition signed by:

Thomas G. Simons

Edward Shortell

Richard R. Silva

Richard A. Rogers

Andrew S. Natsios

Andrew H. Card, Jr.

Barbara E. Gray

Edward M. Dickson

Norris W. Harris

George L. Woods, Jr.

George R. Sprague

Sherman W. Saltmarsh, Jr.

The Commonwealth of Massachusetts

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

AN ACT RELATING TO THE RECEIPT AND RETURN OF TENANTS' SECURITY DEPOSITS BY LANDLORDS.

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 adding after Section 15F the following new section 15G:—

3 *Section 15G.* 1. Any landlord, or agent of a landlord, who
4 receives a security deposit from a tenant or prospective tenant
5 shall give to said tenant or prospective tenant at that time a
6 written receipt indicating the amount of the security deposit
7 received, the name of the person receiving it, and the date on
8 which it is received.

9 No landlord shall require a security deposit equivalent to
10 more than one month's rent. For purposes of this section the
11 term "security deposit" shall mean all funds received from the
12 tenant in advance for any purpose whatsoever other than for
13 payment of the first month's rent. Any funds required of a
14 tenant or held by a landlord as a condition for continued
15 occupancy of premises already occupied shall be deemed to be a
16 security deposit.

17 2. (a) Any person engaged in the rental of property for
18 residential purposes shall furnish to each prospective tenant,
19 prior to execution of a lease or creation of a tenancy, a separate
20 written statement as to the present condition of the premises.

21 Every security deposit received by a landlord shall be
22 deposited in a separate interest-bearing account used only for
23 that purpose and held for the tenant and shall not be
24 commingled with the funds of the landlord or any other person.
25 The landlord shall not hypothecate, pledge, or in any other
26 manner use such moneys until such moneys are actually due the
27 landlord. The landlord shall inform the tenant of the location of
28 the separate account and the account number. The security

29 deposit is considered the lawful property of the tenant until the
30 landlord establishes a right to the deposit or portions thereof.
31 The claim of the tenant to the security deposit shall be prior to
32 the claim of any creditor of the landlord, including a foreclosing
33 mortgagee or trustee in bankruptcy.

34 If the landlord who required and received a security deposit
35 transfers his interest in the dwelling unit, whether by sale,
36 assignment, death, appointment of a receiver or otherwise, the
37 landlord shall transfer all security deposits he received from
38 tenants, with any interest earned thereon, to his successor in
39 interest, and said successor in interest shall be liable for the
40 retention and return of security deposits with interest pursuant
41 to the terms of this section, from the date title to the premises is
42 acquired by the new landlord. The successor in interest shall,
43 within 30 days after acquiring title to the premises, notify all
44 tenants whose security deposits were transferred to him of the
45 fact that he is now holding their security deposits; of his address
46 and phone number; and of the location and number of the
47 account in which the deposit is being held. Any landlord who,
48 after transferring his interest in a dwelling unit, fails to transfer
49 all security deposits to his successor in interest shall be liable in
50 damages in twice the amount of said deposits.

