

Residential Security Deposits

BEFORE RENTAL/LEASE:

What is a security deposit? A security deposit is a payment, fee or deposit that a landlord collects from a tenant at the beginning of a lease or rental to compensate the landlord at the end of the term if the tenant (i) does not pay rent, (ii) damages the property, (iii) breaches the agreement or (iv) does not leave the property clean.

Is there a legal limit imposed on residential security deposits? Yes. For an unfurnished unit, the maximum a landlord is permitted to collect in advance is the equivalent of two months' rent. For furnished units, the landlord is permitted to collect up to three months' rent.

May a landlord collect a cleaning fee or pet deposit or other amount in addition to a security deposit?

Regardless of how the security deposit is labeled (cleaning fee, pet deposit, last month's rent or something else) or how it is divided into different categories, if at all, money that is used by the landlord to protect from financial or other damage is all considered a security deposit and falls within the above 2 or 3-month rent equivalent limits for unfurnished or furnished units.

May security deposit be made in multiple payments? Yes, if allowed by the landlord. If all payments are due before the commencement date of the lease or rental, but have not been paid, the landlord may have the right to terminate the agreement (C.A.R. form CLR, Cancellation of Lease or Rental).

DURING RENTAL/LEASE: May the security deposit be increased during the lease or rental term? Yes, for a month-to-month rental, if proper notice is given and provided the overall amount stays within the 2 or 3-month rent equivalent legal limitation, and if no other restriction, such as rent control, applies. A landlord may use C.A.R. form CTT, Change in Terms of Tenancy for making such a demand on a month-to-month tenancy.

END OF RENTAL/LEASE:

What happens to the security deposit after the tenancy has terminated? Within 21 days after the tenant vacates the property, the landlord is required to give the tenant a written statement identifying (i) the amount of security deposit received, (ii) the amount of security deposit spent, or anticipated will be spent, along with itemized statements for the expenditures, and (iii) the amount being returned to the tenant. A sample Security Deposit Return letter, found in the C.A.R. Sample Letters Library within zipForm®, may be used to document the application and return of a security deposit.

Is there anything a tenant can do to minimize potential reductions from the security deposit? Yes, the tenant can clean the property and repair any damage arising during the tenancy. To help identify potential deductions from security deposit, the landlord is required to give the tenant a notice of a right to have an inspection prior to termination (C.A.R. form FEHN, 48-hour Notice of Inspection Prior To termination of Tenancy). The landlord may use C.A.R. form PMOI, Pre-Move Out Inspection Statement to document the result of a requested inspection by the tenant, and the tenant may use that form to determine which items, if any, to correct prior to vacating the property.