

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 914
SENATE BILL 453

AN ACT TO REGULATE THE HANDLING OF TENANT SECURITY DEPOSITS IN
RESIDENTIAL DWELLING UNITS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 42 of the General Statutes is hereby amended by inserting therein a new Article 5 to read as follows:

"ARTICLE 5.

"Tenant Security Deposit Act.

"§ 42-38. Deposits from the tenant. — Security deposits from the tenant in residential dwelling units shall be deposited in a trust account with a licensed and insured bank or savings institution located in the State of North Carolina or the landlord may, at his option, furnish a bond from an insurance company licensed to do business in North Carolina. The security deposits from the tenant may be held in a trust account outside of the State of North Carolina only if the landlord provides the tenant with an adequate bond in the amount of said deposits. The landlord or his agent shall notify the tenant within 30 days after the beginning of the lease term of the name and address of the bank or institution where his deposit is currently located or the name of the insurance company providing the bond.

"§ 42-39. Permitted uses of the deposit. — Security deposits for residential dwelling units shall be permitted only for the tenant's possible nonpayment of rent, damage to the premises, nonfulfillment of rental period, any unpaid bills which become a lien against the demised property due to the tenant's occupancy, costs of re-renting the premises after breach by the tenant, or court costs in connection with terminating a tenancy. Such security deposit shall not exceed an amount equal to two weeks' rent if a tenancy is week to week, one and one-half months' rent if a tenancy is month to month, and two months' rent for terms greater than month to month. These deposits must be fully accounted for by the landlord as set forth in G.S. 42-40.

"§ 42-40. Landlord's obligations. — Upon termination of the tenancy, money held by the landlord as security may be applied as permitted in G.S. 42-39 or, if not so applied, shall be refunded to the tenant. In either case the landlord in writing shall itemize any damage and mail or deliver same to the tenant, together with the balance of the security deposit, no later than 30 days after termination of the tenancy and delivery of possession by the tenant. If the tenant's address is unknown the landlord shall apply the deposit as permitted in G.S. 42-39 after a period of 30 days and the landlord shall hold the balance of the deposit for collection by the tenant for at least six months. The landlord may not withhold as damages part of the security deposit for conditions that are due to normal wear and tear nor may the landlord retain an amount from the security deposit which exceeds his actual damages.

"§ 42-41. Pet deposits. — Notwithstanding the provisions of this section, the landlord may charge a reasonable, nonrefundable fee for pets kept by the tenant on the premises.

"§ 42-42. Transfer of dwelling unit. — Upon termination of the landlord's interest in the dwelling unit in question, whether by sale, assignment, death, appointment of receiver or otherwise, the landlord or his agent shall, within 30 days, do one of the following acts, either of which shall relieve him of further liability with respect to such payment or deposit:

- (1) transfer the portion of such payment or deposit remaining after any lawful deductions made under this section to the landlord's successor in interest and thereafter notify the tenant by mail of such transfer and of the transferee's name and address; or
- (2) return the portion of such payment or deposit remaining after any lawful deductions made under this section to the tenant.

"§ 42-43. Remedies. — If the landlord or the landlord's successor in interest fails to account for and refund the balance of the tenant's security deposit as required by this Article, the tenant may institute a civil action to require the accounting of and the recovery of the balance of the deposit. In addition to other remedies at law and equity, the tenant may recover damages resulting from noncompliance by the landlord; and upon a finding by the court that the party against whom judgment is rendered was in willful noncompliance with this Article, the court may, in its discretion, allow a reasonable attorney's fee to the duly licensed attorney representing the prevailing party, such attorney's fee to be taxed as part of the cost of court."

Sec. 2. The provisions of this act shall apply to all persons, firms, or corporations engaged in the business of renting or managing residential dwelling units, excluding single rooms, on a weekly, monthly or annual basis.

Sec. 3. This act shall become effective on October 1, 1977.

In the General Assembly read three times and ratified, this the 1st day of July, 1977.