

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

D

SENATE DRS35252-LM-130 (03/12)

Short Title: Tenant Security Deposit/Interest-Bear. Acct. (Public)

Sponsors: Senator Dorsett.

Referred to:

A BILL TO BE ENTITLED

AN ACT PROVING THAT LANDLORDS SHALL DEPOSIT ALL TENANT SECURITY DEPOSITS IN AN INTEREST-BEARING TRUST ACCOUNT AND THE INTEREST SHALL BE REMITTED TO THE NORTH CAROLINA HOUSING TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-50 reads as rewritten:

"§ 42-50. Deposits from the tenant.

Security deposits from the tenant in residential dwelling units shall be deposited in an interest-bearing 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 located.~~"

SECTION 2. G.S. 42-52 reads as rewritten:

"§ 42-52. Landlord's obligations.

(a) The landlord shall direct the bank in which the tenant security deposit is located to do all of the following:

(1) Remit interest or dividends, less any deductions for bank service charges, fees, and taxes collected with respect to the deposited funds, at least quarterly to the North Carolina Housing Trust Fund at the North Carolina Housing Finance Agency. If the bank does not waive service charges or fees on tenant security deposit trust accounts, reasonable customary account maintenance fees may be assessed but only against accrued interest and funds belonging to the landlord maintaining the account. Fees for wire service, insufficient funds, bad checks, stop payment orders, account reconciliation, negative collected balances, and check printing are business costs or costs billable to others and may not be charged against the interest earned by a tenant security deposit trust account.

(2) Transmit with each remittance to the North Carolina Housing Trust Fund at the North Carolina Housing Finance Agency a statement showing the name of the landlord maintaining the account with respect to which the remittance



* D R S 3 5 2 5 2 - L M - 1 3 0 *

1 is sent, the earnings period, and the rate of interest applied in computing the
2 remittance.

3 (3) Transmit to the landlord maintaining the account at the same time action is
4 taken as provided in subdivision (2) of this subsection a report showing the
5 amount remitted to the North Carolina Housing Trust Fund at the North
6 Carolina Housing Finance Agency, the earnings period, and the rate of
7 interest applied in computing the remittance.

8 (b) Upon termination of the tenancy, money held by the landlord as security may be
9 applied as permitted in G.S. 42-51 or, if not so applied, shall be refunded to the tenant. In either
10 case the landlord in writing shall itemize any damage and mail or deliver same to the tenant,
11 together with the balance of the security deposit, no later than 30 days after termination of the
12 tenancy and delivery of possession by the tenant. If the tenant's address is unknown the
13 landlord shall apply the deposit as permitted in G.S. 42-51 after a period of 30 days and the
14 landlord shall hold the balance of the deposit for collection by the tenant for at least six months.
15 The landlord may not withhold as damages part of the security deposit for conditions that are
16 due to normal wear and tear nor may the landlord retain an amount from the security deposit
17 which exceeds his actual damages.

18 (c) Any agreement between a landlord and a tenant that seeks to avoid the rights,
19 obligations, and remedies created by this Article is void as contrary to public policy."

20 **SECTION 3.** This act becomes effective October 1, 2009.