

# Protect Your Security Deposit

## Tenants' Rights in Massachusetts

### How Much Can a Landlord Charge

The law says landlords:

- May only charge for the first and last month's rent, a new lock and key, and a security deposit when you first move in.
- May not ask for a security deposit that is more than your 1st month's rent.
- May not charge other fees, like pet fees, cleaning fees, and application fees.

### Protect Yourself Before You Move In

- Get a receipt for any money you pay the landlord when you move in. If they do not give you a receipt, use **Rent Receipt (Form 2)**.
- Only pay in cash if the landlord can give you a receipt right away.
- Start a folder and keep receipts and other documents related to your new apartment in a safe place.
- List and photograph anything that is broken or damaged. Date your photos and keep them in your folder.
- If the landlord does not give you a Statement of Conditions, when you move in, send **Statement of Condition (Form 3)** to your landlord with the list of anything broken or damaged.

### Subsidized Housing

The amount a landlord can charge for a security deposit depends on the subsidy you have.

If you have a Section 8 voucher under the *Housing Choice Voucher Program* or the *Project-Based Voucher program*, you can be required to pay up to one **total month's rent**. That is, your share of the rent plus the housing agency's share. If one total month's rent is \$1,000/month, a landlord could charge you \$1,000 for a security deposit.

If you have "project-based" Section 8 assistance in privately owned multifamily housing, the best thing to do is to look at the lease. Project-based Section 8 assistance is not a voucher.

If you have a voucher funded by the Massachusetts Rental Voucher Program or the Alternative Housing Voucher Program, a landlord may charge you a security deposit up to one total month's rent.

### Your Landlord's Responsibilities

Landlords must:

- Keep your security deposit in a bank account, separate from their own money.
- Give you a receipt within 30 days of receiving your security deposit. The receipt must tell you what bank your security deposit is in.
- Pay you interest on your security deposit and last month's rent once a year. If they



do not, you can subtract that amount from your next month's rent.

Landlords who disobey any part of this law must return all of your security deposit if you ask for it, even if you still live there.

## **Protect Yourself While You Are Renting**

If your landlord does not pay you interest once a year on your security deposit and last month's rent, you can subtract the amount from your next month's rent.

## **What Can a Security Deposit Be Used For**

After you move out, a landlord may only use your security deposit for unpaid rent or to repair damages you or your guests caused. The damage must be more than "reasonable wear and tear." Landlords are not allowed to use the security deposit for routine painting, cleaning or small repairs.

## **Protect Yourself When You Move Out**

Move your things out, clean the apartment, and fix anything you can.

Inspect the apartment with your landlord and make a list of anything your landlord says needs repair. You can also take photos.

Make a copy of the list. Keep one and give one to the landlord.

Return the keys and give the landlord your forwarding address so she can send you the security deposit.

## **Getting a Security Deposit Back**

If you left your apartment in the same condition as you found it, the landlord must return your security deposit balance, with interest, within 30 days after you move out.

If the landlord does not return your security deposit, send her a letter formally asking her to return 100% of your deposit. You can use **Security Deposit Demand Letter for Tenants Moving Out (Form 6)**.

If the landlord still refuses to return your security deposit, you can sue in Small Claims court. She may have to pay you 3 times the deposit. Learn more at: [www.mass.gov/courts/selfhelp/small-claims/](http://www.mass.gov/courts/selfhelp/small-claims/)

## **New Owners**

You should not lose your security deposit or last month's rent, because of a foreclosure, a sale to a new owner or a new management company.

Keep track of who the new owner is.

If the new owner asks you to pay another security deposit or last month's rent – Say, "No!"

A new owner has 45 days to send you a notice about your security deposit and last month's rent. If 45 days pass and you have not heard from the new owner, write your old landlord and ask her to return your money, plus interest.

If the old landlord does not return your money, you can sue her for 3 times the security deposit that you gave her.



MassLegalHelp.org/Security-Deposits

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