

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 669 (Senator Reilly)  
Judicial Proceedings

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**Real Property - Residential Leases - Security Deposits - Interest Rates**

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This bill reduces the amount of interest that must accrue on a tenant's security deposit from 3% to 1% annually, less any damages rightfully withheld.

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**Fiscal Summary**

**State Effect:** The bill does not directly affect State operations or finances.

**Local Effect:** The bill does not directly affect local government operations or finances.

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Current Law:** "Security deposit" is defined as any payment of money to a landlord by a tenant for the purposes of protecting the landlord against nonpayment of rent, damages due to a breach of the lease, or damages to the leased premises, common areas, major appliances, and furnishings. A security deposit may include advance payment of last month's rent.

A security deposit may not be greater than the equivalent of two month's rent per dwelling unit. The landlord must provide the tenant with a receipt notifying the tenant of his or her rights regarding the security deposit. Additionally, the landlord must hold all security deposits in specified federally insured financial institutions doing business in the State. The accounts must be devoted exclusively to the security deposits and bear interest. The landlord must deposit the security deposit into this account within 30 days

of receipt. The interest must accrue at six-month intervals from the day the tenant gives the landlord the security deposit.

Within 45 days after the contractual end of a tenancy, the landlord must return the security deposit to the tenant, less any damages rightfully withheld. In addition to the principal of the security deposit, the landlord must return simple interest that has accrued in the amount of 3% per annum. If the landlord fails to return this amount within the specified time without a reasonable basis, the tenant may bring an action for up to three times the withheld amount and reasonable attorney's fees.

If a tenant has been ejected or evicted or has abandoned the property prior to the termination of the tenancy, the landlord is not required to return the security deposit unless the tenant provides written notice to the landlord demanding return of the security deposit. This notice must be sent by first-class mail within 45 days of being evicted or ejected or of abandoning the premises. The landlord, within 45 days of receipt of this demand, must send, by first-class mail, a list of any damages and return the security deposit, less any damages rightfully withheld. If the landlord fails to send the list of damages as required, the landlord forfeits the right to withhold any part of the security deposit for damages. In addition to the principal of the security deposit, the landlord must return simple interest that has accrued in the amount of 3% per annum. If the landlord fails to return this amount within the specified time, the tenant may bring an action for up to three times the withheld amount and reasonable attorney's fees.

**Background:** Chapter 2 of 1973 imposed the duty on a landlord to pay interest on a tenant's security deposit at 3% simple interest, accruing at six-month intervals. Chapter 536 of 1980 increased the interest rate that must be paid on a security deposit from 3% to 4%. Chapter 369 of 2004 lowered the required interest rate to be paid on a tenant's security deposit to 3%.

Several neighboring states have statutes regarding the return of accrued interest on a security deposit. For example, security deposits in the Commonwealth of Virginia must accrue interest at a rate equal to four percentage points below the current year's Federal Reserve Board's discount rate. However, no accrued interest is returned unless the landlord has held the deposit for a period exceeding 13 months after the effective date of the rental agreement. In Virginia, when the Federal Reserve discount rate is at or below 1% as of January 1 of a particular year, a tenant's security deposit accrues no interest. New Jersey law requires landlords who rent more than 10 apartments to place the deposit in either an insured money market fund or a federally insured bank account. The rate of interest must equal the average rate the bank pays on a money market fund. Landlords who rent fewer than 10 apartments must place the security deposit in an account that pays

at least the regular rate of interest. Landlords are required to pay tenants, or subtract from the rent, the interest earned on the deposit each year.

**Small Business Effect:** The decrease in the simple amount of interest accrued on a security deposit from 3% to 1% could have a meaningful effect on property management companies. The amount saved by the decrease depends on the number of properties rented, the amount of security deposit collected, and the rental properties' turnover rates.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 284 (Delegate Stocksdales, *et al.*) - Environmental Matters.

**Information Source(s):** Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Virginia Code, New Jersey Code, Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2011  
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