

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 672

(Delegate Weir, *et al.*)

Environmental Matters

Real Property - Residential Leases - Interest on Security Deposits

This bill alters the amount of interest a landlord must pay a tenant after the end of a tenancy from 3% per year to the Federal Reserve discount rate as of January 1 of each year of the tenancy. The bill also alters the interval at which interest accrues from every 6 months to every 12 months. For a tenant who has been evicted or ejected for breaching a lease or who abandons the premises prior to the termination of a tenancy, the interest that the landlord must pay upon demand from the tenant is the lesser of (1) 3% per year; or (2) the Federal Reserve discount rate as of January 1 of each year. With the return of a security deposit, the landlord must deliver an accounting of the interest rate in effect and the amount of interest paid during each year of the tenancy. The bill applies prospectively to residential leases entered into on or after October 1, 2010.

Fiscal Summary

State Effect: If the Consumer Protection Division of the Office of the Attorney General receives fewer than 50 complaints per year stemming from the bill, the additional workload can be handled with existing resources. No effect on revenues.

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

Small Business Effect: Minimal.

Analysis

Current Law: A landlord is required to pay 3% simple interest on a tenant's security deposit and to maintain all security deposits in branches of federally insured financial institutions doing business in the State. Interest accrues at six-month intervals. The deposits must be kept in interest-bearing accounts, and the accounts must be devoted

exclusively to security deposits. In lieu of these accounts, a landlord may hold the security deposits in insured certificates of deposit at branches of federally insured financial institutions doing business in the State or in securities issued by the federal government or the State.

For a tenant who has been evicted or ejected for breaching a lease or who has abandoned the premises prior to the termination of the tenancy, the tenant may demand the return of a security deposit in writing by first-class mail. Within 45 days after receiving the notice, the landlord must send the tenant a list of damages claimed, together with a list of actual costs incurred. The landlord must return the security deposit along with 3% simple interest, less any damages rightfully withheld.

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%.

The Federal Reserve discount rate is the interest rate charged to commercial banks and other depository institutions on loans they receive from their regional Federal Reserve bank's lending facility – the discount window. The Federal Reserve banks offer three discount window programs to depository institutions: primary credit, secondary credit, and seasonal credit – each with its own interest rate. All discount window loans are fully secured.

Under the primary credit program, loans are extended for a very short term (usually overnight) to depository institutions in generally sound financial condition. Depository institutions that are not eligible for primary credit may apply for secondary credit to meet short-term liquidity needs or to resolve severe financial difficulties. Seasonal credit is extended to relatively small depository institutions that have recurring intra-year fluctuations in funding needs, such as banks in agricultural or seasonal resort communities.

The discount rate charged for primary credit (the primary credit rate) is set above the usual level of short-term market interest rates. (Because primary credit is the Federal Reserve's main discount window program, the Federal Reserve at times uses the term "discount rate" to mean the primary credit rate.) The discount rate on secondary credit is above the rate on primary credit. The discount rate for seasonal credit is an average of selected market rates.

Discount rates are established by each Federal Reserve bank's board of directors, subject to the review and determination of the Board of Governors of the Federal Reserve

System. The discount rates for the three lending programs are the same across all Federal Reserve banks except on days around a change in the rate. Historical Federal Reserve Board discount rates are shown in **Exhibit 1**.

Exhibit 1
Federal Reserve Board Historical Discount Rates
January 1, 2001 through February 19, 2010

<u>Date</u>	<u>Discount Rate</u>
February 19, 2010	0.75%
January 1, 2010	0.50%
January 1, 2009	0.50%
January 1, 2008	4.75%
January 1, 2007	6.25%
January 1, 2006	5.25%
January 1, 2005	3.25%
January 1, 2004	2.00%
January 1, 2003	0.75%
January 1, 2002	1.25%
January 1, 2001	6.00%

Source: Federal Reserve Board

Additional Information

Prior Introductions: HB 928 of 2009, a similar bill, received an unfavorable report from the House Environmental Matters Committee. HB 744 of 2005 also received an unfavorable report from the House Environmental Matters Committee. Similar bills, SB 863 and HB 546 were introduced during the 2004 session. SB 863 was withdrawn. HB 546 received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Federal Reserve Board, Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Department of Legislative Services

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