

SENATE BILL 271

N1

2lr0867

By: **Senator Brochin**

Introduced and read first time: January 25, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Security Deposits – Interest**

3 FOR the purpose of requiring a residential landlord and an owner of a mobile home
4 park to deposit security deposits in certain noninterest bearing accounts;
5 repealing the requirement that a landlord pay interest on a security deposit
6 under a residential lease at the end of a tenancy or when an evicted or ejected
7 tenant makes a timely written demand for return of the security deposit;
8 repealing the requirement that a park owner pay interest on a security deposit
9 at the end of a tenancy; clarifying the application of a certain provision of law;
10 and generally relating to interest paid on security deposits under residential
11 leases and in mobile home parks.

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 8–203(d), (e), and (h), 8A–1001(e) and (f), and 15–102(17)
15 Annotated Code of Maryland
16 (2010 Replacement Volume and 2011 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Real Property**

20 8–203.

21 (d) (1) (i) The landlord shall maintain all security deposits in federally
22 insured financial institutions, as defined in § 1–101 of the Financial Institutions
23 Article, which do business in the State.

24 (ii) Security deposit accounts shall be maintained in branches of
25 the financial institutions which are located within the State and the accounts shall be

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **NONINTEREST BEARING AND** devoted exclusively to security deposits [and bear
2 interest].

3 (iii) A security deposit shall be deposited in an account within 30
4 days after the landlord receives it.

5 (iv) The aggregate amount of the accounts shall be sufficient in
6 amount to equal all security deposits for which the landlord is liable.

7 (2) (i) In lieu of the accounts described in paragraph (1) of this
8 subsection, the landlord may hold the security deposits in insured certificates of
9 deposit at branches of federally insured financial institutions, as defined in § 1–101 of
10 the Financial Institutions Article, located in the State or in securities issued by the
11 federal government or the State of Maryland.

12 (ii) In the aggregate certificates of deposit or securities shall be
13 sufficient in amount to equal all security deposits for which the landlord is liable.

14 (3) (i) In the event of sale or transfer of the landlord's interest in
15 the leased premises, including receivership or bankruptcy, the landlord or the
16 landlord's estate, but not the managing agent or court appointed receiver, shall remain
17 liable to the tenant and the transferee for maintenance of the security deposit as
18 required by law, and the withholding and return of the security deposit [plus interest]
19 as required by law, as to all or any portion of the security deposit that the landlord
20 fails to deliver to the transferee together with an accounting showing the amount and
21 date of the original deposit[, the records of the interest rates applicable to the security
22 deposit, if any,] and the name and last known address of the tenant from whom, or on
23 whose behalf, the deposit was received.

24 (ii) A security deposit under this section may not be attached by
25 creditors of the landlord or of the tenant.

26 (4) Any successor in interest is liable to the tenant for failure to return
27 the security deposit[, together with interest,] as provided in this section.

28 (e) (1) Within 45 days after the end of the tenancy, the landlord shall
29 return the security deposit to the tenant [together with simple interest which has
30 accrued in the amount of 3 percent per annum], less any damages rightfully withheld.

31 (2) [Interest shall accrue at six-month intervals from the day the
32 tenant gives the landlord the security deposit. Interest is not compounded.

33 (3) Interest shall be payable only on security deposits of \$50 or more.

34 (4) If the landlord, without a reasonable basis, fails to return any part
35 of the security deposit[, plus accrued interest,] within 45 days after the termination of

1 the tenancy, the tenant has an action of up to threefold of the withheld amount, plus
2 reasonable attorney's fees.

3 (h) (1) The provisions of subsections (e)[(1) and (4)] and (g)(1) and (2) of
4 this section are inapplicable to a tenant who has been evicted or ejected for breach of a
5 condition or covenant of a lease prior to the termination of the tenancy or who has
6 abandoned the premises prior to the termination of the tenancy.

7 (2) (i) A tenant specified in paragraph (1) of this subsection may
8 demand return of the security deposit by giving written notice by first-class mail to
9 the landlord within 45 days of being evicted or ejected or of abandoning the premises.

10 (ii) The notice shall specify the tenant's new address.

11 (iii) The landlord, within 45 days of receipt of such notice, shall
12 present, by first-class mail to the tenant, a written list of the damages claimed under
13 subsection (f)(1) of this section together with a statement of the costs actually incurred
14 and shall return to the tenant the security deposit [together with simple interest
15 which has accrued in the amount of 3 percent per annum], less any damages rightfully
16 withheld.

17 (3) (i) If a landlord fails to send the list of damages required by
18 paragraph (2) of this subsection, the right to withhold any part of the security deposit
19 for damages is forfeited.

20 (ii) If a landlord fails to return the security deposit as required
21 by paragraph (2) of this subsection, the tenant has an action of up to threefold of the
22 withheld amount, plus reasonable attorney's fees.

23 (4) Except to the extent specified, this subsection may not be
24 interpreted to alter the landlord's duties under subsections (e) and (g) of this section.

25 8A-1001.

26 (e) (1) The park owner shall maintain all security deposits in a banking
27 or savings institution in the State. This account shall be **NONINTEREST BEARING**
28 **AND** devoted exclusively to security deposits [and bear interest].

29 (2) A security deposit shall be deposited in the account within 30 days
30 after the park owner receives it.

31 (3) In the event of sales or transfer of any sort, including receivership
32 or bankruptcy, the security deposit is binding on the successor in interest to the
33 person to whom the deposit is given. Security deposits are free from any attachment
34 by creditors.

1 (4) Any successor in interest is liable to the resident for failure to
2 return the security deposit, [together with interest,] as provided in this section.

3 (f) (1) Within 45 days after the end of the tenancy, the park owner shall
4 return the security deposit to the resident [together with simple interest which has
5 accrued in the amount of 3 percent per annum], less any damages rightfully withheld.

6 (2) [Interest shall accrue at 6-month intervals from the day the
7 resident gives the park owner the security deposit. Interest is not compounded.

8 (3) Interest shall be payable only on security deposits of \$50 or more.

9 (4)] If the park owner, without a reasonable basis, fails to return any
10 part of the security deposit[, plus accrued interest,] within 45 days after the
11 termination of the tenancy, the resident has an action of up to threefold of the
12 withheld amount, plus reasonable attorney's fees.

13 15-102.

14 Unless otherwise specifically provided in this article, the provisions of this
15 article are applicable on the effective date. In addition,

16 (17) Section 8-203(d) of this article applies to [all]:

17 (I) ALL security deposits held by a landlord before July 1, 1972,
18 with interest accruing from July 1, 1972[, and to all];

19 (II) ALL security deposits received by the landlord on or after
20 July 1, 1972, AND BEFORE OCTOBER 1, 2012, with interest accruing from the date
21 of receipt; AND

22 (III) ALL SECURITY DEPOSITS RECEIVED BY THE LANDLORD
23 ON OR AFTER OCTOBER 1, 2012, WITH NO INTEREST ACCRUING.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2012.