

## CHAPTER 9

AN ACT concerning the return of certain security deposits, supplementing and amending P.L.1971, c.223.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.46:8-21.5 Deposit recovery, certain; court action not required for tenant receiving financial assistance.

1. A tenant who has received financial assistance through any State or federal program, including welfare or rental assistance, shall not be required to file an action in court to recover deposits withheld by a landlord in violation of P.L.1967, c.265 (C.46:8-19 et seq.) in order to continue participation in any such program.

2. Section 3 of P.L.1971, c.223 (C.46:8-21.1) is amended to read as follows:

C.46:8-21.1 Return of deposit; displaced tenant; civil penalties, certain.

3. Within 30 days after the termination of the tenant's lease or licensee's agreement, the owner or lessee shall return by personal delivery, registered or certified mail the sum so deposited plus the tenant's portion of the interest or earnings accumulated thereon, less any charges expended in accordance with the terms of a contract, lease, or agreement, to the tenant or licensee, or, in the case of a lease terminated pursuant to P.L.1971, c.318 (C.46:8-9.1), the executor or administrator of the estate of the tenant or licensee or the surviving spouse of the tenant or licensee so terminating the lease. The interest or earnings and any such deductions shall be itemized and the tenant, licensee, executor, administrator or surviving spouse notified thereof by personal delivery, registered or certified mail. Notwithstanding the provisions of this or any other section of law to the contrary, no deductions shall be made from a security deposit of a tenant who remains in possession of the rental premises.

Within five business days after:

- a. the tenant is caused to be displaced by fire, flood, condemnation, or evacuation, and
  - b. an authorized public official posts the premises with a notice prohibiting occupancy;
- or
- c. any building inspector, in consultation with a relocation officer, where applicable, has certified within 48 hours that displacement is expected to continue longer than seven days and has so notified the owner or lessee in writing, the owner or lessee shall have available and return to the tenant or the tenant's designated agent upon his demand the sum so deposited plus the tenant's portion of the interest or earnings accumulated thereon, less any charges expended in accordance with the terms of the contract, lease or agreement and less any rent due and owing at the time of displacement.

Such net sum shall continue to be available to be returned upon demand during normal business hours for a period of 30 days at a location in the same municipality in which the subject leased property is located and shall be accompanied by an itemized statement of the interest or earnings and any deductions. The owner or lessee may, by mutual agreement with the municipal clerk, have the municipal clerk of the municipality in which the subject leased property is located return said net sum in the same manner. Within three business days after receiving notification of the displacement, the owner or lessee shall provide written notice to a displaced tenant by personal delivery or mail to the tenant's last known address. Such notice shall include, but not be limited to, the location at which and the hours and days during which said net sum shall be available to him. The owner or lessee shall provide a

duplicate notice in the same manner to the relocation officer. Where a relocation officer has not been designated, the duplicate notice shall be provided to the municipal clerk. When the last known address of the tenant is that from which he was displaced and the mailbox of that address is not accessible during normal business hours, the owner or lessee shall also post such notice at each exterior public entrance of the property from which the tenant was displaced. Any such net sum not demanded by and returned to the tenant or the tenant's designated agent within the period of 30 days shall be redeposited or reinvested by the owner or lessee in an appropriate interest bearing or dividend yielding account in the same investment company, State or federally chartered bank, savings bank or savings and loan association from which it was withdrawn. In the event that said displaced tenant resumes occupancy of the premises, said tenant shall redeliver to the owner or lessee one-third of the security deposit immediately, one-third in 30 days and one-third 60 days from the date of reoccupancy. Upon the failure of said tenant to make such payments of the security deposit, the owner or lessee may institute legal action for possession of the premises in the same manner that is authorized for nonpayment of rent.

The Commissioner of Community Affairs, the Public Advocate, the Attorney General, or any State entity which made deposits on behalf of a tenant may impose a civil penalty against an owner or lessee who has willfully and intentionally withheld deposits in violation of section 1 of P.L.1967, c.265 (C.46:8-19), when the deposits were made by or on behalf of a tenant who has received financial assistance through any State or federal program, including welfare or rental assistance. An owner or lessee of a tenant on whose behalf deposits were made by a State entity and who has willfully and intentionally withheld such deposits in violation of this section shall be liable for a civil penalty of not less than \$500 or more than \$2,000 for each offense. The penalty prescribed in this paragraph shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The State entity which made such deposits on behalf of a tenant shall be entitled to any penalty amounts recovered pursuant to such proceedings.

In any action by a tenant, licensee, executor, administrator or surviving spouse, or other person acting on behalf of a tenant, licensee, executor, administrator or surviving spouse, for the return of moneys due under this section, the court upon finding for the tenant, licensee, executor, administrator or surviving spouse shall award recovery of double the amount of said moneys, together with full costs of any action and, in the court's discretion, reasonable attorney's fees.

3. This act shall take effect immediately.

Approved January 24, 2007.