

§6038. Treatment of security deposit

1. Requirements. During the term of a tenancy, a security deposit given to a landlord as part of a residential rental agreement may not be treated as an asset to be commingled with the assets of the landlord or any other entity or person. All security deposits received after October 1, 1979 must be held in an account of a bank or other financial institution under terms that place the security deposit beyond the claim of creditors of the landlord or any other entity or person, including a foreclosing mortgagee or trustee in bankruptcy, and that provide for transfer of the security deposit to a subsequent owner of the dwelling unit or to the tenant in accordance with section 6035. Upon the transfer of the dwelling unit, the new owner shall assume all responsibility for maintaining and returning to tenants all security deposits accounted for and transferred pursuant to section 6035. Upon request by a tenant, a landlord shall disclose the name of the institution and the account number where the security deposit is being held. A landlord may use a single escrow account to hold security deposits from all of the tenants. A landlord may use a single escrow account to hold security deposits from tenants residing in separate buildings if the buildings are owned by different entities as long as the different entities are substantially controlled or owned by a single landlord.

[PL 2009, c. 566, §24 (NEW).]

2. Remedies. Upon a finding by a court that a violation of this section has occurred, the tenant is entitled to recover from the landlord actual damages, \$500 or the equivalent of one month's rent, whichever is greatest, together with the aggregate amount of costs and expenses reasonably incurred in connection with the action. The court may also award to the tenant reasonable attorney's fees.

[PL 2009, c. 566, §24 (NEW).]

3. Application. The provisions of subsection 2 apply to all security deposits collected by a landlord after June 1, 2010. As of October 1, 2010, the provisions of subsection 2 apply to all security deposits held by or on behalf of a landlord.

[PL 2009, c. 566, §24 (NEW).]

SECTION HISTORY

PL 1979, c. 315 (NEW). PL 1981, c. 428, §12 (AMD). PL 1999, c. 213, §2 (AMD). PL 2009, c. 566, §24 (RPR).

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