

Security Deposits

California Civil Code Section 1950.5
Rent Control Regulations – Chapter 14

California State Law regulates the collection and refund of security deposits. Rental agreements may refer to these deposits as “security deposit,” “cleaning deposit,” or even “last month’s rent.” No matter what the property owner calls it, the law considers any deposit to be a security deposit and limits the amount the owner may charge and what it may be used for when the tenant moves out.

MOVING IN

How much deposit can a property owner charge?

The total amount charged for any type of security deposit cannot exceed two months’ rent in an unfurnished unit or three months’ rent in a furnished unit. The owner may require the tenant to pay this deposit in addition to the first month’s rent.

Tenants should be sure to get a written receipt for all amounts paid. If there is a written rental agreement, it should clearly state the amount of deposit the property owner collected. Tenants should be sure to keep a copy of their rental agreement. They may also want to take photographs documenting the condition in which the unit was received. This may be helpful if a dispute arises in the future about the refund of the deposit.

Rent Control Regulation 14002 does not permit the owner to increase the security deposit once it has been established.

What remedy does a tenant have if the owner charged too much for the security deposit?

Tenants may file a Complaint for Excess Rent with the Rent Control Board. Refer to procedures in Chapter 8 of the Rent Control regulations.

INTEREST ON SECURITY DEPOSITS

Rent Control regulations do not require an owner to pay tenant interest on their security deposit.

Can the owner increase the security deposit on an existing tenant?

MOVING OUT

A property owner has generally up to 21 days from the date on which a tenant vacates to either refund the entire deposit or provide the tenant with an itemized statement with documentation explaining why all or any part of the deposit is not being returned. The refund and statement may be personally delivered or mailed.

Can the property owner keep any of the deposit?

It is not legal for a security deposit to be "nonrefundable," and such a provision in a rental agreement cannot be enforced. However, under state law, a property owner may withhold all or part of a security deposit for the following reasons:

- To cover unpaid rent through the date on which a tenancy terminated. This is usually 30 days after a tenant gives notice that he or she is moving.
- To repair damage to the unit other than "ordinary wear and tear" (wear and tear that ordinarily occurs with the use of any unit).
- To replace items originally furnished by the property owner and not returned by the vacating tenant, such as keys, furniture or trash receptacles, if the rental agreement authorizes this deduction from the deposit.
- To have the unit cleaned, if the unit was not left as clean as when it was rented.

If deductions for repairs and cleaning exceed \$125, or if the tenant requests documentation within 14 days of receiving the itemization of deductions, Civil Code section 1950.5 generally requires receipts to be attached to the itemization deductions.

Tenants also have the right to request the owner inspect the unit before they move out. Based on this inspection, the owner must give the tenant an itemized statement specifying repairs or cleaning that would be the basis of any deductions from the security deposit. Tenants would then be able to complete the repairs and/or cleaning prior to moving out to avoid security deposit deductions.

Can the security deposit be used for last month's rent?

This can be done only if it was specifically agreed that the deposit was for last month's rent when the tenants moved in. If the deposit was for something other than last month's rent, the tenants must pay their regular rent during the last month of tenancy.

What can a tenant do if the owner does not return the security deposit?

A tenant who has not received a refund or an itemized statement within three weeks, or who believes a deduction is not justified, should make a written demand to the property owner, keeping a copy of the request. If the issues are not resolved, the tenant may file a lawsuit in Small Claims Court for amounts up to \$10,000. If the owner's retention of all or part of the security deposit was in bad faith, the tenant may ask for statutory damages in addition to the amount of security deposit owed.

To protect their right to a refund, vacating tenants should ask the property owner to inspect the unit on the day they move out, although property owners are not obligated to do so. Prior to moving out, tenants should take photographs of the entire interior of their unit to document its condition, and/or have a credible witness other than a roommate conduct a thorough inspection of the unit.

NOTE: This information sheet presents only an overview of security deposit requirements. To obtain complete information, see Civil Code Section 1950.5 at www.leginfo.ca.gov/calaw.html.