



Portland Housing Bureau

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Security Deposits

Rental Services Commission
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Security Deposits 101

- **Refundable fee charged to tenant upon move-in**
- **Purposes:**
 - **Covers landlord repair costs for damage beyond “normal wear and tear”**
 - **“Last month’s rent” payment covers unpaid rent or fees**
 - **“Pet deposit” covers cost of damage from tenant’s pet (service animals exempted)**
- **Under state law, must be refunded within 31 days after tenancy ends with “written accounting” of any money withheld**

Existing Protections in Oregon State Law

- **Disclosure of security deposit in lease**
- **Landlord must provide tenant with receipt of deposit payment**
- **Restrictions on deposit increases (none during first year of tenancy, 3-month installment payment after that)**
- **Service and companion animals exempted from pet deposits**
- **Deposit cannot be withheld for basic cleaning (except for machine-cleaning carpets if specified in lease)**
- **Withholdings to pay for repairperson salaries must be based on “reasonable hourly rate”**

Areas **Not** Regulated by Oregon State Law

- No cap on security deposits
- No requirement to inform tenants on legal rights and obligations
- No requirement to consider value depreciation when calculating item replacement costs
- Court system only method for resolving move-in/move-out condition disputes
- No regulation of interest payments on security deposits held in trust accounts
- Landlords can withhold security deposits without making repairs – ORS 90.300(7)(b)

Requirements in Other Jurisdictions

Caps on Security Deposits

- **25 states** place legal caps on security deposits
 - ❖ Highest is **3 month's rent** (Nevada, furnished rental units in California)
 - ❖ Lowest is **1 month's rent** (Hawaii, Massachusetts, Nebraska, New Hampshire, Rhode Island, tenants over 62 yrs old in Connecticut, unfurnished units in Delaware and Kansas, leases under 1 yr in New Mexico)
- **Seattle** has some of the most detailed laws of any city:
 - ❖ Security deposits + all move-in fees capped at cost of first month's rent
 - ❖ Within this, pet deposits capped at $\frac{1}{4}$ month's rent
 - ❖ Tenants on month-to-month or fixed-term agreements may pay in installments. Landlords cannot charge additional fees on installment payments.
 - Exemptions when there is no additional last month's rent payment, and for landlords renting only one unit which is their primary residence.

Disclosure of Tenant Rights and Obligations

- **Seattle** requires a written lease if charging a security deposit and requires landlords to provide tenants with a city-approved information packet
- **Washington, D.C.** requires landlords to provide tenants with a “Tenant’s Bill of Rights” written by the city’s Office of the Tenant Advocate

Move-In Condition Reports

- **Washington:** Landlord must perform walk-through when tenant moves in and provide tenant with unit condition report
- **California:** Landlord must perform walk-through and provide tenant with unit condition report upon move-in and within two weeks before move-out **IF REQUESTED**. Tenant has right to be present during walk-through.
- **Massachusetts:** Landlord must provide tenant a unit condition report within **10 days** of move-in (or upon receipt of security deposit). Tenant has **15 days** to complete own report if they disagree and send copy to landlord, who has **15 days** to agree or respond with statement of disagreement.

Depreciation Calculations

- Few jurisdictions require that the cost to replace damaged items be based on the item's "depreciated" value. Often the deposit withholding is based on the item's original value.
- There is some precedent. For example, HousingSearchNW.org offers following guidance for **Washington**:

After determining if an item requires replacement due to Tenant's abuse or neglect (not normal wear and tear), to calculate Tenant's responsibility, a Landlord must know: (a) actual cost to replace the item, (b) how long an item would be expected to be useful before it wears out (its "useful life"), (c) current age of the item, and (d) its remaining useful life. Landlord may only charge Tenant for the remaining useful life of the item.

Example:

Cost of new dishwasher: \$400

Useful life of dishwasher: 10 years

Age of dishwasher at the end of tenancy: 4 years

Remaining useful life: 6 years (10 yrs less 4 yrs)

Tenant Responsibility: $\$400 \times .60 = \240

Source: "Guide to Damages and Normal Wear and Tear", HousingSearchNW.org, 2011

Proof of Repair Costs

- **California** requires landlords to provide receipts for any charge above \$126 they withhold from a security deposit

Trust Accounts and Interest Payments

- **12 states** and numerous cities (including **Los Angeles, New York City, Berkeley** and **San Francisco**) require landlords to place security deposits in a trust or escrow account and annually pay the tenant any interest the deposit accrues, either directly or through rent reductions. These laws often specify interest payments can be withheld to pay for damages and outstanding rent or fees.
- **Variance by jurisdiction on ...**
 - **Location of bank** (3 states + New York City require within state)
 - **Minimum interest rate**
 - Highest is 5% (Ohio)
 - Lowest is 1% (Minnesota)
 - Most cities adjust annually based on avg bank interest rates
 - **Exemptions**
 - Small landlords (less than 6 units in New York City, less than 25 rental units in Illinois)
 - First 6 months to 1 yr of tenancy (6 states)