



## **Draft Permanent Administrative Rule**

### **Rental Housing Security Deposits**

#### **A. Purpose and Scope**

Under PCC 30.01.087 Landlords in the City of Portland are limited in how much they can collect for a Security Deposit and must follow supplemental requirements on how funds can be withheld for repairs and replacements. The code also outlines requirements on the process for documenting and maintaining the Dwelling Unit Condition Report, holding a Security Deposit in a separate bank account, and providing notices of rights and Rent payment histories. These administrative rules provide additional clarification and requirements for several subsections of PCC 30.01.087.

#### **B. Definitions**

1. **Condition Report** is a form provided by the Landlord, noting the condition of all fixtures, appliances, equipment, and personal property listed in the Rental Agreement, and noting damage.
2. **Depreciation Schedule** means the most recent version of the *Fixture, Appliance, Equipment, and Personal Property Depreciation Notice 30.01.087.C.1* published by PHB in accordance with PCC 30.01.087.
3. **Dwelling Unit** has the meaning given in ORS 90.100, as amended from time to time
4. **Landlord** has the meaning given in ORS 90.100, as amended from time to time.
5. **PHB** means the Portland Housing Bureau.
6. **Rental Agreement** has the meaning given in ORS 90.100, as amended from time to time.
7. **Security Deposit** has the meaning given in ORS 90.100, as amended from time to time.
8. **Tenant** has the meaning given in ORS 90.100, as amended from time to time.

#### **C. Timing**

1. For the purposes of PCC 30.01.087, the Commencement Date will be measured from the date the Tenant is legally allowed to take possession of the Dwelling Unit.
2. The Landlord must provide the Tenant a Condition Report for the Tenant to complete by the Commencement Date.
3. PCC 30.01.087 Subsections A, B, C.1-3, and D apply only to Security Deposits collected for new Rental Agreements entered into on or after March 1, 2020.

4. PCC 30.01.087 Subsections C.4-5, E, F, G, and H apply to existing and new Rental Agreements beginning March 1, 2020.
5. When timelines in under PCC 30.01.087 differ from requirements in federal, state, or local law; actions should be taken as soon as practicable, but in no event later than the timelines presented in PCC 30.01.087 or the relevant federal, state, or local law; whichever is sooner.

#### **D. Secure Bank Accounts**

1. Secure bank account, as used in PCC 30.01.087, means a federally insured establishment for the custody, loan, exchange or issue of money, for the extension of credit, and for facilitating the transmission of funds.
2. If the Security Deposit or last-month's Rent deposit is deposited in an interest-bearing account, the Landlord may retain up to five (5) percent of the interest earned for administrative cost.

#### **C.E. Condition Reports**

1. If the Landlord disputes the Condition Report, the Tenant and the Landlord ~~must attempt to~~ may obtain joint third-party validation of the condition of the Dwelling Unit. If third-party validation of the condition of the Dwelling Unit is unsuccessful, ~~and the Landlord does not pursue a claim and judgement in the court,~~ the Tenant's Condition Report shall establish the baseline condition of the Dwelling Unit.
  - a. The third party should be a neutral party, and not ~~an established associate~~ a friend or family member of the Landlord or the Tenant.
  - b. The Landlord and the Tenant are encouraged to independently document the condition of the Dwelling Unit. Documentation should note the date of documentation and condition of items that could be contested.
  - ~~c. Should a claim and judgement in the court be pursued, the prevailing party is entitled to reasonable attorney fees and court costs.~~
2. The Landlord shall update the Condition Report to reflect all repairs and replacements impacting the Dwelling Unit during the term of the Rental Agreement that the Landlord intends to apply against the Tenant Security Deposit. The Landlord shall provide the updated Condition Report ~~to the Tenant~~ within 10 business days of repair or replacement, to the Tenant. The landlord may provide maintenance work order history in place of an updated Condition Report, if it addresses a.i-iii and b below.
  - a. Updated Condition Reports must describe:
    - i. The repair or replacement date(s);
    - ii. The damage being repaired or replaced; and
    - iii. The cost of the repair or replacement.
  - b. Replaced items should be noted along with the item purchase date, item condition, and depreciated value.

- c. If the Tenant disputes the updated Condition report or maintenance work order history, the Tenant and the Landlord may attempt to obtain third-party validation of the updated condition, ~~or pursue a claim and judgement in the court.~~

#### **D.F. Security Deposit Withholdings**

1. ~~A~~When a Landlord ~~may only apply~~ applies Security Deposit funds for the repair and replacement of ~~those~~ fixtures, appliances, equipment, or personal property ~~that are;~~ these items must be identified in the Rental Agreement with the estimated original purchase price, original purchase date, and to which a depreciated value ~~is~~ attached in accordance with the Depreciation Schedule published by PHB.
2. A Landlord may provide documentation reasonably acceptable to a Tenant demonstrating why a different calculation is justified for a fixture, appliance, equipment, or personal property.
  1. Documentation must include:
    - i. The current depreciated value of the fixture, appliance, equipment, or personal property;
    - ii. An explanation of why a the depreciated value derived from the Depreciation Schedule is inapplicable for the fixture, appliance, equipment, or personal property; and
    - iii. A justification of how the repair or alternative replacement cost of the fixture, appliance, equipment, or personal property has been calculated or determined.
3. When a Landlord does not have the original purchase price and date of a fixture, appliance, equipment, or personal property; a Landlord must approximate the age and depreciated value of the fixture, appliance, equipment, or personal property using the same or comparable items.
4. A Landlord is not required to list structural elements in the Rental Agreement in order to apply Security Deposit funds. Structural elements are not subject to the Depreciation Schedule published by PHB.

#### **G. Rent Payment History**

1. A Landlord is not required to provide a tenant a Rental History Form or payment history when a Termination Notice providing for a right to cure is cured within 5 days of delivery.

#### **H. Applicability of other Federal, State and Local Laws**

1. PCC 30.01.087 imposes requirements for handling tenant security deposits that are in addition to and not intended to supersede applicable state or federal laws. As such, when an applicable federal or state law prescribes a more stringent requirement or timeline than a local law, the Landlord can comply with the local law by meeting the applicable federal or state law requirements or timelines.

**E.I. Responsibility**

PHB is responsible for managing and implementing this rule.

**E.J. History**

Date adopted: **TBD**

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