



General Assembly

January Session, 2019

Raised Bill No. 926

LCO No. 4644



Referred to Committee on BANKING

Introduced by:
(BA)

AN ACT ALLOWING LANDLORDS TO ACCEPT CERTAIN ADVANCE RENTAL PAYMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47a-21 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2019*):

3 (a) As used in this chapter:

4 (1) "Accrued interest" means the interest due on a security deposit
5 as provided in subsection (i) of this section, compounded annually to
6 the extent applicable.

7 (2) "Commissioner" means the Banking Commissioner.

8 (3) "Escrow account" means any account at a financial institution
9 which is not subject to execution by the creditors of the escrow agent
10 and includes a clients' funds account.

11 (4) "Escrow agent" means the person in whose name an escrow
12 account is maintained.

13 (5) "Financial institution" means any state bank and trust company,
14 national bank, savings bank, federal savings bank, savings and loan
15 association, and federal savings and loan association that is located in
16 this state.

17 (6) "Forwarding address" means the address to which a security
18 deposit may be mailed for delivery to a former tenant.

19 (7) "Landlord" means any landlord of residential real property, and
20 includes (A) any receiver; (B) any successor; and (C) any tenant who
21 sublets his premises.

22 (8) "Receiver" means any person who is appointed or authorized by
23 any state, federal or probate court to receive rents from tenants, and
24 includes trustees, executors, administrators, guardians, conservators,
25 receivers, and receivers of rent.

26 (9) "Rent assistance payment" means an advance rental payment
27 made directly to a landlord on behalf of a tenant by a rent assistance
28 program.

29 (10) "Rent assistance program" means a local, state, federal or
30 nonprofit program or organization that makes rent assistance
31 payments.

32 [(9)] (11) "Rent receiver" means a receiver who lacks court
33 authorization to return security deposits and to inspect the premises of
34 tenants and former tenants.

35 [(10)] (12) "Residential real property" means real property
36 containing one or more residential units, including residential units
37 not owned by the landlord, and containing one or more tenants who
38 paid a security deposit.

39 [(11)] (13) "Security deposit" means any advance rental payment or
40 rent assistance payment, or any installment payment collected
41 pursuant to section 47a-22a, except an advance payment for the first
42 month's rent or a deposit for a key or any special equipment.

43 [(12)] (14) "Successor" means any person who succeeds to a
44 landlord's interest whether by purchase, foreclosure or otherwise and
45 includes a receiver.

46 [(13)] (15) "Tenant" means a tenant, as defined in section 47a-1, or a
47 resident, as defined in section 21-64.

48 [(14)] (16) "Tenant's obligations" means (A) the amount of any rental
49 or utility payment due the landlord from a tenant; and (B) a tenant's
50 obligations under the provisions of section 47a-11.

51 (b) (1) In the case of a tenant under sixty-two years of age, a
52 landlord shall not demand a security deposit in an amount that
53 exceeds two months' rent.

54 (2) In the case of a tenant sixty-two years of age or older, a landlord
55 shall not demand a security deposit in an amount that exceeds one
56 month's rent. Any landlord who has received a security deposit in an
57 amount that exceeds one month's rent from a tenant who becomes
58 sixty-two years of age after paying such security deposit shall return
59 the portion of such security deposit that exceeds one month's rent to
60 the tenant upon the tenant's request.

61 (3) A landlord may receive and accept rent assistance payments for
62 one or more month's rent, including rent assistance payments for the
63 total amount of rental payments due to the landlord under the
64 remainder of a tenant's lease.

65 (c) Any security deposit paid by a tenant or rent assistance program
66 shall remain the property of such tenant or rent assistance program, as
67 the case may be, in which the landlord shall have a security interest, as
68 defined in subdivision (35) of subsection (b) of section 42a-1-201, to
69 secure such tenant's obligations. A security deposit shall be exempt
70 from attachment and execution by the creditors of the landlord and
71 shall not be considered part of the estate of the landlord in any legal
72 proceeding. Any voluntary or involuntary transfer of a landlord's
73 interest in residential real property to a successor shall constitute an

74 assignment to such successor of such landlord's security interest in all
75 security deposits paid by or on behalf of tenants of such transferred
76 residential real property.

77 (d) (1) Not later than the time specified in subdivision (2) of this
78 subsection, the person who is the landlord at the time a tenancy is
79 terminated, other than a rent receiver, shall pay to the tenant or
80 [former tenant] rent assistance program, as the case may be: (A) The
81 amount of any security deposit that was deposited by the tenant or
82 rent assistance program with the person who was landlord at the time
83 such security deposit was deposited less the value of any damages that
84 any person who was a landlord of such premises at any time during
85 the tenancy of such tenant has suffered as a result of such tenant's
86 failure to comply with such tenant's obligations; and (B) any accrued
87 interest. If the landlord at the time of termination of a tenancy is a rent
88 receiver, such rent receiver shall return security deposits in accordance
89 with the provisions of subdivision (3) of this subsection.

90 (2) Upon termination of a tenancy, any tenant or rent assistance
91 program may notify the landlord in writing of such [tenant's] tenant or
92 rent assistance program's forwarding address. Not later than thirty
93 days after termination of a tenancy or fifteen days after receiving
94 written notification of such [tenant's] tenant or rent assistance
95 program's forwarding address, whichever is later, each landlord other
96 than a rent receiver shall deliver to the tenant or [former tenant] rent
97 assistance program, at such forwarding address, [either] as applicable
98 (A) the full amount of the security deposit paid by such tenant or rent
99 assistance program plus accrued interest, or (B) the balance of such
100 security deposit and accrued interest after deduction for any (i)
101 damages suffered by such landlord by reason of such tenant's failure
102 to comply with such tenant's obligations, together with a written
103 statement itemizing the nature and amount of such damages, and (ii)
104 past due rental payments. Any landlord who violates any provision of
105 this subsection shall be liable for twice the amount of any security
106 deposit paid by such tenant or rent assistance program, except that, if
107 the only violation is the failure to deliver the accrued interest, such

108 landlord shall be liable for ten dollars or twice the amount of the
109 accrued interest, whichever is greater.

110 (3) (A) Any receiver who is authorized by a court to return security
111 deposits and to inspect the premises of any tenant shall pay security
112 deposits and accrued interest in accordance with the provisions of
113 subdivisions (1) and (2) of this subsection from the operating income of
114 such receivership to the extent that any such payments exceed the
115 amount in any escrow accounts for such tenants or rent assistance
116 programs. (B) Any rent receiver shall present any claim by any tenant
117 or rent assistance program for return of a security deposit to the court
118 which authorized the rent receiver. Such court shall determine the
119 validity of any such claim and shall direct such rent receiver to pay
120 from the escrow account or from the operating income of such
121 property the amount due such tenant or rent assistance program as
122 determined by such court.

123 (e) A successor, other than a receiver, shall be liable for [the] claims
124 [of] by tenants [of such property] and rent assistance programs for the
125 return of any part of such security deposit which is or becomes due to
126 such tenant or rent assistance program during the time such successor
127 is a landlord. A receiver's liability for payment of security deposits and
128 interest under this section shall be limited to the balance in any escrow
129 account for such tenants or rent assistance programs maintained by
130 such receiver in such receivership in accordance with subsection (h) of
131 this section and to the operating income generated in such
132 receivership.

133 (f) Any landlord who is not a resident of this state shall appoint in
134 writing the Secretary of the State as the landlord's attorney upon
135 whom all process in any action or proceeding against such landlord
136 may be served.

137 (g) Any person may bring an action in replevin or for money
138 damages in any court of competent jurisdiction to reclaim any part of
139 such person's security deposit which may be due. This section does not

140 preclude the landlord, rent assistance program or tenant from
141 recovering other damages to which the landlord, rent assistance
142 program or tenant may be entitled.

143 (h) (1) Each landlord shall immediately deposit the entire amount of
144 any security deposit received by such landlord from [each] any tenant
145 or rent assistance program into one or more escrow accounts
146 established or maintained in a financial institution for the benefit of
147 [each] such tenant or rent assistance program. Each landlord shall
148 maintain each such account as escrow agent and shall not withdraw
149 funds from such account except as provided in subdivision (2) of this
150 subsection.

151 (2) The escrow agent may withdraw funds from an escrow account
152 to: (A) Disburse the amount of any security deposit and accrued
153 interest due to a tenant or rent assistance program pursuant to
154 subsection (d) of this section; (B) disburse interest to a tenant or rent
155 assistance program pursuant to subsection (i) of this section; (C) make
156 a transfer of the entire amount of certain security deposits pursuant to
157 subdivision (3) of this subsection; (D) retain interest credited to the
158 account in excess of the amount of interest payable to the tenant or rent
159 assistance program under subsection (i) of this section; (E) retain all or
160 any part of a security deposit and accrued interest after termination of
161 tenancy equal to (i) the damages suffered by the landlord by reason of
162 the tenant's failure to comply with such tenant's obligations, and (ii)
163 past due rental payments; (F) disburse all or any part of the security
164 deposit to a tenant or rent assistance program at any time during
165 tenancy; [or] (G) transfer such funds to another financial institution or
166 escrow account, provided such funds remain continuously in an
167 escrow account; or (H) disburse monthly rental payments to the
168 landlord as such payments become due under the terms of the tenant's
169 lease.

170 (3) (A) Whenever any real estate is voluntarily or involuntarily
171 transferred from a landlord, other than a receiver, to a successor,
172 including a receiver, such landlord shall withdraw from the escrow

173 account and deliver to the successor the entire amount of security
174 deposits paid by or on behalf of tenants of the property being
175 transferred, plus any interest accrued pursuant to subsection (i) of this
176 section. If at the time of transfer of such real estate the funds in such
177 account are commingled with security deposits paid by or on behalf of
178 tenants in real estate not being transferred to such successor, and if at
179 such time the funds in such account are less than the amount of
180 security deposits paid by or on behalf of all tenants whose security
181 deposits are contained in such account, such landlord shall deliver to
182 such successor a pro rata share of security deposits paid by or on
183 behalf of tenants of the real estate being transferred to such successor.
184 (B) Whenever any real estate is transferred from a receiver to a
185 successor, such receiver shall dispose of the escrow accounts as
186 ordered by the court which appointed such receiver. The order of such
187 court shall provide for the priority of the present and future rights of
188 tenants and rent assistance programs to security deposits paid by
189 [them] such tenants or rent assistance programs over the rights of any
190 secured or unsecured creditor of any person and shall provide that the
191 funds in such account shall be delivered to the successor of such
192 receiver for immediate deposit in an escrow account for tenants who
193 paid security deposits or any rent assistance program that paid a
194 security deposit on behalf of a tenant.

195 (4) (A) The landlord shall provide each tenant and any rent
196 assistance program that paid a security deposit on behalf of a tenant
197 with a written notice stating the amount held for the benefit of the
198 tenant and the name and address of the financial institution at which
199 the tenant's security deposit is being held not later than thirty days
200 after the landlord receives a security deposit from or on behalf of the
201 tenant or the tenant's previous landlord or transfers the security
202 deposit to another financial institution or escrow account.

203 (B) If the commissioner makes a written request to the landlord for
204 any information related to a [tenant's] security deposit, including the
205 name of each financial institution in which any escrow account is
206 maintained and the account number of each escrow account, the

207 landlord shall provide such information to the commissioner not later
208 than seven days after the request is made.

209 (i) On and after July 1, 1993, each landlord other than a landlord of a
210 residential unit in any building owned or controlled by any
211 educational institution and used by such institution for the purpose of
212 housing students of such institution and their families, and each
213 landlord or owner of a mobile manufactured home or of a mobile
214 manufactured home space or lot or park, as such terms are defined in
215 subdivisions (1), (2) and (3) of section 21-64, shall pay interest on each
216 security deposit received by such landlord at a rate of not less than the
217 average rate paid, as of December 30, 1992, on savings deposits by
218 insured commercial banks as published in the Federal Reserve Board
219 Bulletin rounded to the nearest one-tenth of one percentage point,
220 except in no event shall the rate be less than one and one-half per cent.
221 On and after January 1, 1994, the rate for each calendar year shall be
222 not less than the deposit index, determined under this section as it was
223 in effect during such year. On and after January 1, 2012, the rate for
224 each calendar year shall be not less than the deposit index, as defined
225 in section 36a-26, for that year. On the anniversary date of the tenancy
226 and annually thereafter, such interest shall be paid to the tenant, [or]
227 resident or rent assistance program or credited toward the next rental
228 payment due from the tenant or resident, as the landlord or owner
229 shall determine, unless the rent assistance program requires that any
230 such interest be paid or credited directly to the tenant or rent
231 assistance program. If the tenancy is terminated before the anniversary
232 date of such tenancy, or if the landlord or owner returns all or part of a
233 security deposit prior to termination of the tenancy, the landlord or
234 owner shall pay the accrued interest to the tenant, [or] resident or rent
235 assistance program not later than thirty days after such termination or
236 return. Interest shall not be paid to a tenant or rent assistance program
237 for any month in which the tenant has been delinquent for more than
238 ten days in the payment of any monthly rent, unless the landlord
239 imposes a late charge for such delinquency. No landlord shall increase
240 the rent due from a tenant because of the requirement that the landlord

241 pay on interest the security deposit. A landlord that timely receives a
242 rent assistance payment in the full amount of one or more months' rent
243 shall be deemed to have received a monthly rental payment from the
244 tenant for the month or months such rent assistance payment is
245 intended by the rent assistance program to cover. The tenant shall not
246 be considered delinquent or in default and the landlord shall not
247 impose a late charge or bring an action to recover rent or evict the
248 tenant for the tenant's nonpayment of rent for any such month.

249 (j) (1) Except as provided in subdivision (2) of this subsection, the
250 commissioner may receive and investigate complaints regarding any
251 alleged violation of subsections (b), (d), (h) or (i) of this section. For the
252 purposes of such investigation, any person who is or was a landlord
253 shall be subject to the provisions of section 36a-17. If the commissioner
254 determines that any landlord has violated any provision of this section
255 over which the commissioner has jurisdiction, the commissioner may,
256 in accordance with section 36a-52, order such person to cease and
257 desist from such practices and to comply with the provisions of this
258 section.

259 (2) The commissioner shall not have jurisdiction over (A) the failure
260 of a landlord to pay interest to a tenant or rent assistance program
261 annually under subsection (i) of this section, or (B) the refusal or other
262 failure of the landlord to return all or part of the security deposit if
263 such failure results from the landlord's good faith claim that such
264 landlord has suffered damages as a result of a tenant's failure to
265 comply with such tenant's obligations, regardless of whether the
266 existence or amount of the alleged damages is disputed by the tenant.
267 For purposes of this section, "good faith claim" means a claim for
268 actual damages suffered by the landlord for which written notification
269 of such damages has been provided to the tenant in accordance with
270 the provisions of subdivision (2) of subsection (d) of this section.

271 (3) The commissioner may adopt regulations, in accordance with
272 chapter 54, to carry out the purposes of this section.

273 (k) (1) Any person who is a landlord at the time of termination of a
274 tenancy and who knowingly and wilfully fails to pay all or any part of
275 a security deposit when due shall be subject to a fine of not more than
276 two hundred fifty dollars for each offense, provided it shall be an
277 affirmative defense under this subdivision that such failure was
278 caused by such landlord's good faith belief that he was entitled to
279 deduct the value of damages he has suffered as a result of such
280 tenant's failure to comply with such tenant's obligations.

281 (2) Any person who knowingly and wilfully violates the provisions
282 of subsection (h) of this section on or after October 1, 1979, shall be
283 subject to a fine of not more than five hundred dollars or
284 imprisonment of not more than thirty days or both for each offense. It
285 shall be an affirmative defense under the provisions of this subdivision
286 that at the time of the offense, such person leased residential real
287 property to fewer than four tenants who paid a security deposit.

288 (3) Any person who is a landlord at the time an interest payment is
289 due under the provisions of subsection (i) of this section and who
290 knowingly and wilfully violates the provisions of such subsection shall
291 be subject to a fine of not more than one hundred dollars for each
292 offense.

293 (4) No financial institution shall be liable for any violation of this
294 section except for any violation in its capacity as a landlord.

295 (l) Nothing in this section shall be construed as a limitation upon: (1)
296 The power or authority of the state, the Attorney General or the
297 commissioner to seek administrative, legal or equitable relief
298 permitted by the general statutes or at common law; or (2) the right of
299 any tenant to bring a civil action permitted by the general statutes or at
300 common law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2019	47a-21

Statement of Purpose:

To allow landlords to accept advance rental payments made on behalf of tenants by certain rental assistance programs.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]