



GEORGIA SECURITY DEPOSIT INFORMATION FOR TENANTS



What is a Security Deposit?

A security deposit is money paid by the tenant to the landlord. The deposit protects the landlord if the tenant moves out without making required payments or damages the unit. If the tenant gives proper notice and moves out without owing any rent or damages, the landlord must return the security deposit to the tenant within thirty (30) days. All landlords, regardless of the number of units they own, must return the security deposit within thirty (30) days after the termination of the lease or the surrender and acceptance of the premises, whichever occurs later.

If the landlord is retaining all or part of the security deposit because he claims you damaged the unit, he must send a statement specifying the exact reasons why the security deposit is being retained, list any damages, and estimate the dollar value of the damage within thirty (30) days. If you left the unit owing your landlord rent in an amount greater than the amount of your security deposit, your landlord can withhold your security deposit to recover that money without giving you notice.

What Can Be Deducted from a Tenant's Security Deposit?

All or part of the security deposit may be retained by the landlord to compensate for physical damage caused to the premises by the tenant or members of the tenant's household, pets or guests. A landlord **cannot** retain a security deposit to cover normal wear and tear. A landlord can also deduct from the security deposit unpaid rent, late charges, unpaid utilities which the tenant is responsible for under the terms of the lease or for actual damages caused by the tenant's breach of the lease or rental agreement.

To determine the reasonableness of the charges for repairs, the tenant could talk with reliable sources in the repair business and get estimates from them to compare to the amount charged by the landlord. Generally, the tenant is not responsible for defects that existed before the tenant occupied the premises. The purpose of a move-in inspection is to determine any defects before the tenant moves in. If you signed the move-in inspection list and failed to identify the existing damage, you can be charged for the repair of the damages. If you noted the condition of the apartment on the list at the time of the inspection, the cost of the repair should not be deducted from your security deposit.

When must the landlord return the security deposit?

If the tenant gives proper notice and vacates without owing any rent or damages, the landlord must return the security deposit to the tenant within thirty (30) days. The thirty days begin to run after the termination of the lease or the surrender and

acceptance of the premises, whichever occurs last. This rule applies to all landlords, regardless of the number of units they own.

If the tenant left owing rent or other amounts due under the lease which are **less** than the security deposit, the landlord can withhold the amount unpaid from the security deposit. If the amount of rent owed is less than the amount of the security deposit, the landlord must return the remaining amount of the security deposit to the tenant with an explanation of why part of the deposit was withheld within 30 days.

If the tenant left owing rent or other amounts due under the lease which are **greater** than the amount of the security deposit, the landlord can keep the entire security deposit and will not be penalized if he fails to notify the tenant by letter why he is keeping the security deposit. It is still a good business practice for the landlord to notify the tenant why the security deposit is being held within 30 days.

If the tenant moves out and has damaged the unit, the landlord may take out of the security deposit the cost of repairing the unit. The landlord retaining all or part of the security deposit due to damages must give the tenant a statement specifying the exact reasons why the security deposit is being retained. This notice must be sent to the tenant within the thirty (30) day period.

What happens if the landlord refuses to refund the security deposit even though the tenant satisfied the conditions for refunding the security deposit?

If the landlord refuses to refund the security deposit, the tenant may bring a claim for those monies in the magistrate court or state court where the landlord resides or otherwise has designated a person as his agent of service. A landlord who owns more than ten (10) units or uses a third party to manage the units can be liable for three times the amount of the improperly withheld security deposit plus attorney fees. The landlord may not have to pay treble damages if the landlord shows that the withholding was not intentional and resulted from an error which occurred in spite of procedures reasonably designed to avoid such an error.

What do I need to know about security deposits before I sign a lease?

Georgia law establishes an inspection procedure, the purpose of which is for the landlord and tenant to agree on the pre-occupancy condition of the rental unit. Georgia law requires that before the tenant pays a security deposit and moves into the rental unit the landlord must give the tenant a list of any damages to the unit. This list must be signed by the landlord and the tenant. Before signing, the tenant is to be afforded an opportunity to inspect the rental unit to determine if the list is accurate or if additional defects need to be added to the list. The tenant must sign the list or specify in writing on the list the items in dispute and then sign.

The move-in inspection discussed applies to landlords who collectively own more than ten (10) rental units including units owned by their spouse and children or who

employ a management agent regardless of the number of units owned. Landlords who own fewer than ten (10) units or who manage the units themselves are not required to follow the inspection procedures but may find it helpful in establishing repair needs and responsibilities.

What do I need to do at the end of the tenancy?

When the landlord wants to keep any part of the security deposit to recover for damages he must, within three (3) business days, inspect the unit and prepare a list of damages. The three days start to run after the termination of the lease or the surrender and acceptance of the premises, whichever occurs later. The landlord must sign the list and provide it to the tenant. The lists must contain written notice of the tenant's duty to sign or to dispute the items listed. The tenant is entitled to inspect the premises within five (5) business days after the termination of occupancy to determine if the list is accurate. If the landlord fails to follow this procedure, he cannot withhold the security deposit to pay for damages.

The tenant may either sign the move-out inspection list or state why he disagrees with the list of damages. If the tenant fails to sign the list or signs the list but does not object to the damages listed by the landlord, the tenant may not sue the landlord to recover the security deposit. A tenant may only sue the landlord for withholding damages from the security deposit if the tenant stated that he disagreed with the deduction on the list of damages provided by the landlord and gave it to the landlord.

The move-out inspection discussed applies to landlords who collectively own more than ten (10) rental units including units owned by their spouse and children or who employ a management agent, regardless of the number of units owned. Landlords who own fewer than ten (10) units or who manage the units themselves are not required to follow the inspection procedures but may find it helpful in establishing repair needs and responsibilities.

How Does the Landlord Return the Security Deposit?

The security deposit and any statement(s) which accompany it must be sent to the last known address of the tenant. If it is returned as undeliverable and the landlord is unable to locate the tenant after a reasonable effort, the security deposit becomes the property of the landlord ninety (90) days after it was mailed. A tenant moving out of a rental property should give the landlord an address to which the security deposit should be sent.

Is a landlord required to give the tenant the interest earned on the security deposit?

No. Georgia law does not require the landlord to place the security deposit in an interest bearing account nor does the law require that any interest that is earned be paid to the tenant. However, the tenant and landlord may agree that the landlord will provide

interest earned on the security deposit and, if agreed upon, this should be reflected in the lease.

What is the landlord required to do with the security deposit?

A landlord who owns more than ten (10) rental units, including units owned by their spouse and children, or who employ a management agent, regardless of the number of units owned, must give the tenant written notice of the location and number of the account in which the security deposit is held. As a substitute for having an escrow account, the landlord may post a \$50,000 bond with the superior court clerk of the county in which the rental property is located.

What happens to the security deposit when an apartment complex changes owners?

The former owner is responsible for making appropriate arrangements for the security deposit. The security deposit may be transferred to the new owner, making the new owner responsible, or the prior owner may refund the security deposit to the tenant. If the former owner fails to take either of these actions, the tenant has a legal action against the prior owner. A tenant should write to the former owner and the current owner requesting information on the security deposit.

What other types of deposits may be required by the landlord?

In addition to the security deposit, the landlord may require an application fee, cleaning fee, pet deposit and an advance rent deposit. Before paying any of these deposits or fees, a tenant should get in writing what the payment is for and under what terms the payment will be refunded. Refundable pet deposits and advance rent deposits are considered a security deposit under the Georgia law.

Application fees or deposits to hold an apartment until you actually sign a lease are not considered security deposits under Georgia law and are usually not refundable, should you choose not to move into the unit. You should ask if the holding deposit or application fee will be applied to your first month's rent or security deposit if you sign a lease and move in.

Always get a receipt for any deposit or fee that you pay. If the fee is refundable, ask the landlord to put this information on the receipt.

If an individual pays a security deposit on an apartment and the application is rejected, how long does the person receiving the security deposit have to return the funds?

If the amount paid was for a security deposit, Georgia law requires it to be returned thirty (30) days from the date the tenant vacates. Thus, the landlord may have

a duty to return the security deposit within thirty (30) days after an application is rejected.

If the amount paid was a holding deposit or fee, it would be refundable under the terms which the tenant and landlord discussed at the time of payment. The Georgia landlord tenant law does not directly address reimbursement of such deposits. It is possible that the holding deposit would not be refundable. The answer would depend on the agreement between you and the landlord at the time of payment.

Always get a receipt for any deposit or fee that you pay. If the fee is refundable, ask the landlord to put this information on the receipt.

My former landlord sent me a letter saying that I owed \$500. I wrote the landlord stating that I disagreed with this statement. The landlord has now turned the matter over to a collection agency. What do I do?

If the landlord has turned the debt over to a collection agency you can write to the landlord and credit bureau disputing the debt, informing them that the information given them by the landlord is incorrect. It may be helpful to send the credit agency a copy of any inspection lists or other letters that you wrote to your landlord concerning this debt.

Under the Fair Credit Reporting Act, a person may have incorrect or incomplete information corrected without charge. If a tenant disputes information in their credit report, the credit bureau must reinvestigate it within a reasonable period of time unless it believes that the dispute is irrelevant or frivolous. If after reinvestigation a disputed item is found to be inaccurate or can no longer be verified, the credit bureau must delete it. If the reinvestigation does not resolve the dispute, the tenant may file a statement of up to one hundred (100) words with the credit bureau. This statement becomes part of the credit report unless the credit bureau has reasonable grounds to believe it is frivolous or irrelevant.

Applicable Georgia Code Sections: **§§ 44-7-30 through §§ 44-7-35.**



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