

FACT SHEET



Andrew M. Cuomo, Governor

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DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

9 Security Deposit

A security deposit is money that a tenant deposits with the owner of the apartment for the repair of any damages to the apartment for which the tenant is responsible.

The amount of a security deposit for a rent regulated apartment is generally limited by law to one month's rent. However, if two months' security deposit was collected from a tenant by the owner when the apartment first came under rent stabilization, and the same tenant is still occupying the apartment, the owner must refund to the tenant any additional security deposit which exceeds one month's rent when the tenant reaches the age of 65, or receives Social Security disability retirement benefits or SSI benefits. The next rent stabilized tenant cannot be required to deposit more than one month's rent as security deposit.

When a lease is renewed at a higher rental amount, or the rent is increased during the term of the lease, the owner can collect additional money from the tenant to bring the security deposit up to the new monthly rent. Even though a tenant may be exempt from paying a lease increase because of his or her Senior Citizen Rent Increase Exemption (SCRIE), (See Fact Sheet #21, Special Rights of Senior Citizens), or Disability Rent Increase Exemption (DRIE), (See Fact Sheet #20, Special Rights of Disabled Persons), the tenant must still pay the increased security.

The security deposit must be kept by the owner in an interest-bearing account in a New York State bank. The owner must notify the tenant of the name and address of the bank and pay the tenant the full annual interest, less 1% of the security deposit per year for the owner's administrative costs. The tenant can choose whether the interest is to be subtracted from the rent, held in trust until the end of the tenancy, or paid in a lump sum at the end of each year.

A security deposit should not be used as a final month's rent. At the end of the lease, if the tenant honored the terms and conditions of the lease and left the apartment in the same condition as it was when rented, except for normal wear, the owner must return the full security deposit. If damage was done, the owner may apply part or all of the security deposit to the cost of repair.

If the tenant disagrees with the owner over the return of the security deposit or payment of interest, the tenant may begin a proceeding in small claims court or contact the Consumer Frauds and Protection Bureau of the New York State Attorney General's Office. The tenant can file a "Tenant's Complaint of Rent and/or Other Specific Overcharges in a Rent Stabilized Apartment" (DHCR Form RA-89) if the owner demands the tenant pays more than one month's security.

Sources:

New York City Rent Stabilization Code, Section 2525.4

Tenant Protection Regulations, Section 2505.4

New York City Rent and Eviction Regulations, Section 2205.5

New York State Rent and Eviction Regulations, Section 2105.5

For more information or assistance, call the DHCR Rent InfoLine, or visit your Borough or County Rent Office.

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6th Floor
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