

2018 Regular Session

SENATE BILL NO. 466

BY SENATOR PRICE

LEASES. Provides relative to security deposits for residential leases. (1/1/19)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact Part IV of Chapter 1 of Title IX of Title 9 of the Revised Statutes of 1950, to be comprised of R.S. 9:3251 through 3254, relative to residential leases; to provide for the return of a security deposit; to provide for the right of retention; to provide time periods for the return of a security deposit; to provide for venue; to provide for damages and attorney fees; to provide with respect to the waiver of rights; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part IV of Chapter 1 of Title IX of Title 9 of the Revised Statutes of 1950, comprised of R.S. 9:3251 through 3254, is hereby amended and reenacted to read as follows:

PART IV. **RESIDENTIAL** LESSEE'S **SECURITY** DEPOSIT

§3251. Lessee's deposit to secure lease; retention by lessor; conveyance of leased premises; itemized statement by lessor **Return of deposit; right of retention**

A. Any ~~advance or~~ deposit of money furnished by a ~~tenant or~~ lessee to a ~~landlord or~~ lessor **in a residential lease** to secure the performance of any part of a ~~written or oral lease or rental agreement~~ **obligations of the lessee** shall be returned

1 to the ~~tenant or lessee of residential or dwelling premises within one month after the~~
2 ~~lease shall terminate~~ **in accordance with R.S. 9:3252**, except that the landlord or
3 lessor may retain all or any portion of the ~~advance or security deposit~~ **which that** is
4 reasonably necessary to remedy a ~~default of the tenant or to remedy unreasonable~~
5 ~~wear to the premises~~ **the lessee's failure to perform**. If any portion of an ~~advance~~
6 ~~or deposit is retained, by a landlord or lessor, he~~ **the lessor** shall forward **furnish** to
7 the ~~tenant or lessee, within one month after the date the tenancy terminates, an~~ **a**
8 **written** itemized statement accounting for the ~~proceeds which are~~ **amount** retained
9 and giving the reasons ~~therefor~~ **for the retention**. The ~~tenant shall furnish the lessor~~
10 ~~a forwarding address at the termination of the lease, to which such statements may~~
11 ~~be sent.~~

12 B. ~~In the event of a transfer of the lessor's interest in the leased premises~~
13 ~~during the term of a lease, the transferor shall also transfer to his successor in interest~~
14 ~~the sum deposited as security for performance of the lease and the transferor shall~~
15 ~~then be relieved of further liability with respect to the security deposit. The~~
16 ~~transferee shall be responsible for the return of the lessee's deposit at the termination~~
17 ~~of the lease, as set forth in Subsection A of this Section.~~ **The lessee shall furnish the**
18 **lessor an address to which the security deposit and any statements shall be sent.**
19 **A lessee who fails to furnish an address to the lessor does not forfeit the right to**
20 **the return of the security deposit or to any written itemized statements.**

21 C. ~~Paragraph A of this Section shall not apply when the tenant abandons the~~
22 ~~premises, either without giving notice as required or prior to the termination of the~~
23 ~~lease.~~ **If the lessee fails to bring an action for the return of the security deposit**
24 **within three years after the date of the termination of the lease, the security**
25 **deposit is deemed abandoned and becomes the property of the lessor.**

26 **§3251.1. Security deposit; security interest**

27 **A. The lessor's interest in the security deposit is a security interest under**
28 **the Uniform Commercial Code. Nevertheless, R.S. 10:9-207(c)(2) shall not apply**
29 **to the security deposit. Unless otherwise required by law or by agreement of the**

1 parties, the lessor is not required to hold the security deposit in a separate
2 account or to remit to the lessee any interest earned on the deposit.

3 B. The claim of a lessee to a security deposit held in a deposit account
4 maintained by the lessor with a financial institution is preferred to that of the
5 lessor's creditors, except that the lessee's claim is subject to the rights of the
6 following persons:

7 (1) The financial institution with which the deposit account is
8 maintained.

9 (2) A transferee of funds from the deposit account, unless the transferee
10 acts in collusion with the lessor in violating the rights of the lessee to the security
11 deposit.

12 (3) A secured party holding a security interest perfected by control of the
13 deposit account in accordance with R.S. 10:9-104.

14 §3252. Damages; venue Return of security deposit; time periods

15 ~~A. The willful failure to comply with R.S. 9:3251 shall give the tenant or~~
16 ~~lessee the right to recover actual damages or two hundred dollars, whichever is~~
17 ~~greater, from the landlord or lessor, or from the lessor's successor in interest. Failure~~
18 ~~to remit within thirty days after written demand for a refund shall constitute willful~~
19 ~~failure. The lessor shall return the security deposit and furnish a written~~
20 ~~itemized statement accounting for any retention within one month after the date~~
21 ~~of termination of the lease. If the lessee remains in possession of the premises~~
22 ~~after the termination of the lease, the period within which the lessor shall return~~
23 ~~the security deposit and furnish any statement does not begin to run until the~~
24 ~~lessee has relinquished possession to the lessor.~~

25 ~~B. An action for the recovery of such damages may be brought in the parish~~
26 ~~of the lessor's domicile or in the parish where the property is situated. If the lessee~~
27 ~~has not furnished an address to the lessor for the return of the security deposit,~~
28 ~~the period within which the lessor shall return the security deposit and furnish~~
29 ~~any statement does not begin to run until the address is furnished.~~

and proposed law sets forth the ranking of a claim to the deposit.

Present law (R.S. 9:3252) provides for venue and damages for the willful failure to comply with statutory requirements to return the deposit. Proposed law retains the venue provision.

Proposed law provides the time period for the return of the deposit and requires a written statement accounting for the retention of any funds.

Present law (R.S. 9:3253) provides for costs and attorney fees. Proposed law retains these provisions and provides for the damages which may be awarded for a lessor's failure to comply with present law.

Proposed law provides that damages may equal \$300 or twice the amount of the portion of the deposit wrongfully retained, whichever is greater. Proposed law also gives the court discretion in the awarding of damages for technical violations.

Present law (R.S. 9:3254) provides for the nullity of any waiver of a lessee's rights. Proposed law retains these provisions but modernizes the terminology.

Effective on January 1, 2019.

(Amends R.S. 9:3251-3254)