

What is a security deposit?

A security deposit is any **advance money** a tenant gives to a landlord as **security against damage** to the rental premises or for advance rent. A security deposit may be called a "damage deposit," "last month's rent," a "pet deposit," or by another name.

Am I entitled to interest?

Not necessarily. The law gives a landlord three choices:

1. Put the security deposit in a separate non-interest bearing account;
2. Put the deposit in a separate interest bearing account for the benefit of the tenant; or
3. Post a bond and pay the tenant 5 percent simple interest.

In the first two situations, the landlord cannot mix the tenant's deposit money with the landlord's money, nor can the landlord use the tenant's money in any way.



In the third situation, the landlord may mix the money with his or her own—or use it—but must post a bond with the Clerk of the Court or Secretary of State to protect the deposit.

Does the landlord have to tell me where my deposit is and its interest rate?

A landlord **who rents more than five separate dwelling units** must notify the tenant in writing within 30 days of receiving the security deposit of the manner in which the deposit is being held, whether the deposit is earning interest and, if so, the rate of interest. The landlord must also inform the tenant in writing of when the tenant will receive interest payments.

Can I apply my security deposit toward the last month's rent?

Ordinarily, security deposits are not intended as last month's rent, but instead as security against damage to the rental property. The landlord may agree to allow you to apply your deposit to the last month's rent, but he or she is under no obligation to do so unless the parties specifically contract to this arrangement.

How do I get my security deposit back?

A landlord is required to give you notice of his or her intention to keep all or part of your security deposit and the reason for imposing this claim. If the landlord does **not** plan to make a claim against the security deposit, he/she has **15 days** after the premises are vacated to return the deposit. If the landlord plans to make a claim against the security deposit, he/she has **30 days** to send you such notice by certified mail. Otherwise, he or she forfeits the right to keep any of the deposit.

To protect your rights, you must advise the landlord of your new address. Because the landlord is obligated only to send the notice to your last *known* mailing address, always give **written notice** of your new address to the landlord.

If after 30 days the landlord does not return your deposit or send you a letter stating why all or part of your deposit won't be returned, you can sue him or her for the return of the entire deposit. If the landlord sends you a letter, and you disagree with the landlord, you must write back within 15 days (certified mail recommended

but not required) stating that you object to the landlord's claim on your deposit.

If you and the landlord cannot agree, you can sue, but you will have to prove that you were not responsible for the claimed damage. Photos and/or an independent inspection would be helpful.



If you do not object in writing after receiving the landlord's letter, the landlord may deduct the amount of his or her claim and, as required, forward the balance (if any) to you within 30 days of the original notice. It is questionable whether a tenant can sue for return of the deposit if he or she has not objected.



Can I go to court without a lawyer?

Yes. The Small Claims Court is set up to settle disputes without requiring people to have a lawyer. However, any person has the right to bring a lawyer if he or she so chooses. Please read our brochure about Small Claims Court to understand how it works.



This brochure is for general education only. It is not intended to be used to solve individual problems. If you have specific questions, see an attorney.

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The Florida Bar Foundation, with *Interest on Trust Accounts* program funding, provides support for this service.

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What Every Tenant Should Know About Security Deposits

