

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 29, 2013

**SENATE BILL**

**No. 603**

---

---

**Introduced by Senator Leno**

February 22, 2013

---

---

An act to amend Section 1950.5 of the Civil Code, relating to landlord and tenant.

LEGISLATIVE COUNSEL'S DIGEST

SB 603, as amended, Leno. Landlord and tenant: security deposit.

Existing law governs the duties of a landlord and the rights of a tenant with respect to demanding, holding, and returning the security for a rental agreement for residential real property, as specified.

Existing law authorizes a court to award statutory damages of up to twice the amount of the security, in addition to actual damages, for the bad faith claim or retention by a landlord or the landlord's successors in interest of the security or any portion thereof in violation of these provisions of existing law, or the bad faith demand of replacement security in violation of existing law.

This bill would instead require a court to award the above-described statutory damages for the bad faith claim or retention of security or the bad faith demand of replacement security by a landlord or the landlord's successor in interest. Absent bad faith, the bill would require an award of statutory damages of an amount equal to the amount improperly withheld, in addition to actual damages, for an unlawful claim or retention or demand of replacement security.

~~The bill would require a tenant to be paid interest on security, as specified, and would require a landlord to provide notice of the tenant's right to this interest, except as specified.~~

~~The bill would also require all rental deposits to be held by the landlord on behalf of the tenant in an account at a financial institution that is insured by an agency of the federal government and would prohibit the commingling of rental deposits with the personal funds of the landlord. The bill would require a landlord to notify the tenant of the financial institution the name and address of where the account was established.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1950.5 of the Civil Code is amended to  
2 read:  
3 1950.5. (a) This section applies to security for a rental  
4 agreement for residential property that is used as the dwelling of  
5 the tenant.  
6 (b) As used in this section, “security” means any payment, fee,  
7 deposit, or charge, including, but not limited to, any payment, fee,  
8 deposit, or charge, except as provided in Section 1950.6, that is  
9 imposed at the beginning of the tenancy to be used to reimburse  
10 the landlord for costs associated with processing a new tenant or  
11 that is imposed as an advance payment of rent, used or to be used  
12 for any purpose, including, but not limited to, any of the following:  
13 (1) The compensation of a landlord for a tenant’s default in the  
14 payment of rent.  
15 (2) The repair of damages to the premises, exclusive of ordinary  
16 wear and tear, caused by the tenant or by a guest or licensee of the  
17 tenant.  
18 (3) The cleaning of the premises upon termination of the tenancy  
19 necessary to return the unit to the same level of cleanliness it was  
20 in at the inception of the tenancy. The amendments to this  
21 paragraph enacted by the act adding this sentence shall apply only  
22 to tenancies for which the tenant’s right to occupy begins after  
23 January 1, 2003.  
24 (4) To remedy future defaults by the tenant in any obligation  
25 under the rental agreement to restore, replace, or return personal  
26 property or appurtenances, exclusive of ordinary wear and tear, if  
27 the security deposit is authorized to be applied thereto by the rental  
28 agreement.

1 (c) (1) A landlord may not demand or receive security, however  
2 denominated, in an amount or value in excess of an amount equal  
3 to two months' rent, in the case of unfurnished residential property,  
4 and an amount equal to three months' rent, in the case of furnished  
5 residential property, in addition to any rent for the first month paid  
6 on or before initial occupancy.

7 (2) This subdivision does not prohibit an advance payment of  
8 not less than six months' rent if the term of the lease is six months  
9 or longer.

10 (3) This subdivision does not preclude a landlord and a tenant  
11 from entering into a mutual agreement for the landlord, at the  
12 request of the tenant and for a specified fee or charge, to make  
13 structural, decorative, furnishing, or other similar alterations, if  
14 the alterations are other than cleaning or repairing for which the  
15 landlord may charge the previous tenant as provided by subdivision  
16 (e).

17 (d) Any security shall be held by the landlord for the tenant who  
18 is party to the lease or agreement. The claim of a tenant to the  
19 security shall be prior to the claim of any creditor of the landlord.

20 (e) The landlord may claim of the security only those amounts  
21 as are reasonably necessary for the purposes specified in  
22 subdivision (b). The landlord may not assert a claim against the  
23 tenant or the security for damages to the premises or any defective  
24 conditions that preexisted the tenancy, for ordinary wear and tear  
25 or the effects thereof, whether the wear and tear preexisted the  
26 tenancy or occurred during the tenancy, or for the cumulative  
27 effects of ordinary wear and tear occurring during any one or more  
28 tenancies.

29 (f) (1) Within a reasonable time after notification of either  
30 party's intention to terminate the tenancy, or before the end of the  
31 lease term, the landlord shall notify the tenant in writing of his or  
32 her option to request an initial inspection and of his or her right to  
33 be present at the inspection. The requirements of this subdivision  
34 do not apply when the tenancy is terminated pursuant to subdivision  
35 (2), (3), or (4) of Section 1161 of the Code of Civil Procedure. At  
36 a reasonable time, but no earlier than two weeks before the  
37 termination or the end of lease date, the landlord, or an agent of  
38 the landlord, shall, upon the request of the tenant, make an initial  
39 inspection of the premises prior to any final inspection the landlord  
40 makes after the tenant has vacated the premises. The purpose of

1 the initial inspection shall be to allow the tenant an opportunity to  
2 remedy identified deficiencies, in a manner consistent with the  
3 rights and obligations of the parties under the rental agreement, in  
4 order to avoid deductions from the security. If a tenant chooses  
5 not to request an initial inspection, the duties of the landlord under  
6 this subdivision are discharged. If an inspection is requested, the  
7 parties shall attempt to schedule the inspection at a mutually  
8 acceptable date and time. The landlord shall give at least 48 hours'  
9 prior written notice of the date and time of the inspection if either  
10 a mutual time is agreed upon, or if a mutually agreed time cannot  
11 be scheduled but the tenant still wishes an inspection. The tenant  
12 and landlord may agree to forgo the 48-hour prior written notice  
13 by both signing a written waiver. The landlord shall proceed with  
14 the inspection whether the tenant is present or not, unless the tenant  
15 previously withdrew his or her request for the inspection. Written  
16 notice by the landlord shall contain, in substantially the same form,  
17 the following:

18  
19 “State law permits former tenants to reclaim abandoned personal  
20 property left at the former address of the tenant, subject to certain  
21 conditions. You may or may not be able to reclaim property without  
22 incurring additional costs, depending on the cost of storing the  
23 property and the length of time before it is reclaimed. In general,  
24 these costs will be lower the sooner you contact your former  
25 landlord after being notified that property belonging to you was  
26 left behind after you moved out.”

27  
28 (2) Based on the inspection, the landlord shall give the tenant  
29 an itemized statement specifying repairs or cleanings that are  
30 proposed to be the basis of any deductions from the security the  
31 landlord intends to make pursuant to paragraphs (1) to (4),  
32 inclusive, of subdivision (b). This statement shall also include the  
33 texts of paragraphs (1) to (4), inclusive, of subdivision (b). The  
34 statement shall be given to the tenant, if the tenant is present for  
35 the inspection, or shall be left inside the premises.

36 (3) The tenant shall have the opportunity during the period  
37 following the initial inspection until termination of the tenancy to  
38 remedy identified deficiencies, in a manner consistent with the  
39 rights and obligations of the parties under the rental agreement, in  
40 order to avoid deductions from the security.

1 (4) Nothing in this subdivision shall prevent a landlord from  
2 using the security for deductions itemized in the statement provided  
3 for in paragraph (2) that were not cured by the tenant so long as  
4 the deductions are for damages authorized by this section.

5 (5) Nothing in this subdivision shall prevent a landlord from  
6 using the security for any purpose specified in paragraphs (1) to  
7 (4), inclusive, of subdivision (b) that occurs between completion  
8 of the initial inspection and termination of the tenancy or was not  
9 identified during the initial inspection due to the presence of a  
10 tenant's possessions.

11 (g) (1) No later than 21 calendar days after the tenant has  
12 vacated the premises, but not earlier than the time that either the  
13 landlord or the tenant provides a notice to terminate the tenancy  
14 under Section 1946 or 1946.1, Section 1161 of the Code of Civil  
15 Procedure, or not earlier than 60 calendar days prior to the  
16 expiration of a fixed-term lease, the landlord shall furnish the  
17 tenant, by personal delivery or by first-class mail, postage prepaid,  
18 a copy of an itemized statement indicating the basis for, and the  
19 amount of, any security received and the disposition of the security,  
20 and shall return any remaining portion of the security to the tenant.  
21 After either the landlord or the tenant provides notice to terminate  
22 the tenancy, the landlord and tenant may mutually agree to have  
23 the landlord deposit any remaining portion of the security deposit  
24 electronically to a bank account or other financial institution  
25 designated by the tenant. After either the landlord or the tenant  
26 provides notice to terminate the tenancy, the landlord and the tenant  
27 may also agree to have the landlord provide a copy of the itemized  
28 statement along with the copies required by paragraph (2) to an  
29 email account provided by the tenant.

30 (2) Along with the itemized statement, the landlord shall also  
31 include copies of documents showing charges incurred and  
32 deducted by the landlord to repair or clean the premises, as follows:

33 (A) If the landlord or landlord's employee did the work, the  
34 itemized statement shall reasonably describe the work performed.  
35 The itemized statement shall include the time spent and the  
36 reasonable hourly rate charged.

37 (B) If the landlord or landlord's employee did not do the work,  
38 the landlord shall provide the tenant a copy of the bill, invoice, or  
39 receipt supplied by the person or entity performing the work. The  
40 itemized statement shall provide the tenant with the name, address,

1 and telephone number of the person or entity, if the bill, invoice,  
2 or receipt does not include that information.

3 (C) If a deduction is made for materials or supplies, the landlord  
4 shall provide a copy of the bill, invoice, or receipt. If a particular  
5 material or supply item is purchased by the landlord on an ongoing  
6 basis, the landlord may document the cost of the item by providing  
7 a copy of a bill, invoice, receipt, vendor price list, or other vendor  
8 document that reasonably documents the cost of the item used in  
9 the repair or cleaning of the unit.

10 (3) If a repair to be done by the landlord or the landlord's  
11 employee cannot reasonably be completed within 21 calendar days  
12 after the tenant has vacated the premises, or if the documents from  
13 a person or entity providing services, materials, or supplies are not  
14 in the landlord's possession within 21 calendar days after the tenant  
15 has vacated the premises, the landlord may deduct the amount of  
16 a good faith estimate of the charges that will be incurred and  
17 provide that estimate with the itemized statement. If the reason for  
18 the estimate is because the documents from a person or entity  
19 providing services, materials, or supplies are not in the landlord's  
20 possession, the itemized statement shall include the name, address,  
21 and telephone number of the person or entity. Within 14 calendar  
22 days of completing the repair or receiving the documentation, the  
23 landlord shall complete the requirements in paragraphs (1) and (2)  
24 in the manner specified.

25 (4) The landlord need not comply with paragraph (2) or (3) if  
26 either of the following applies:

27 (A) The deductions for repairs and cleaning together do not  
28 exceed one hundred twenty-five dollars (\$125).

29 (B) The tenant waived the rights specified in paragraphs (2) and  
30 (3). The waiver shall only be effective if it is signed by the tenant  
31 at the same time or after a notice to terminate a tenancy under  
32 Section 1946 or 1946.1 has been given, a notice under Section  
33 1161 of the Code of Civil Procedure has been given, or no earlier  
34 than 60 calendar days prior to the expiration of a fixed-term lease.  
35 The waiver shall substantially include the text of paragraph (2).

36 (5) Notwithstanding paragraph (4), the landlord shall comply  
37 with paragraphs (2) and (3) when a tenant makes a request for  
38 documentation within 14 calendar days after receiving the itemized  
39 statement specified in paragraph (1). The landlord shall comply  
40 within 14 calendar days after receiving the request from the tenant.

1 (6) Any mailings to the tenant pursuant to this subdivision shall  
2 be sent to the address provided by the tenant. If the tenant does  
3 not provide an address, mailings pursuant to this subdivision shall  
4 be sent to the unit that has been vacated.

5 (h) Upon termination of the landlord's interest in the premises,  
6 whether by sale, assignment, death, appointment of receiver, or  
7 otherwise, the landlord or the landlord's agent shall, within a  
8 reasonable time, do one of the following acts, either of which shall  
9 relieve the landlord of further liability with respect to the security  
10 held:

11 (1) Transfer the portion of the security remaining after any  
12 lawful deductions made under subdivision (e) to the landlord's  
13 successor in interest. The landlord shall thereafter notify the tenant  
14 by personal delivery or by first-class mail, postage prepaid, of the  
15 transfer, of any claims made against the security, of the amount  
16 of the security deposited, and of the names of the successors in  
17 interest, their addresses, and their telephone numbers. If the notice  
18 to the tenant is made by personal delivery, the tenant shall  
19 acknowledge receipt of the notice and sign his or her name on the  
20 landlord's copy of the notice.

21 (2) Return the portion of the security remaining after any lawful  
22 deductions made under subdivision (e) to the tenant, together with  
23 an accounting as provided in subdivision (g).

24 (i) Prior to the voluntary transfer of a landlord's interest in the  
25 premises, the landlord shall deliver to the landlord's successor in  
26 interest a written statement indicating the following:

27 (1) The security remaining after any lawful deductions are made.

28 (2) An itemization of any lawful deductions from any security  
29 received.

30 (3) His or her election under paragraph (1) or (2) of subdivision  
31 (h).

32 This subdivision does not affect the validity of title to the real  
33 property transferred in violation of this subdivision.

34 (j) In the event of noncompliance with subdivision (h), the  
35 landlord's successors in interest shall be jointly and severally liable  
36 with the landlord for repayment of the security, or that portion  
37 thereof to which the tenant is entitled, when and as provided in  
38 subdivisions (e) and (g). A successor in interest of a landlord may  
39 not require the tenant to post any security to replace that amount  
40 not transferred to the tenant or successors in interest as provided

1 in subdivision (h), unless and until the successor in interest first  
2 makes restitution of the initial security as provided in paragraph  
3 (2) of subdivision (h) or provides the tenant with an accounting as  
4 provided in subdivision (g).

5 This subdivision does not preclude a successor in interest from  
6 recovering from the tenant compensatory damages that are in  
7 excess of the security received from the landlord previously paid  
8 by the tenant to the landlord.

9 Notwithstanding this subdivision, if, upon inquiry and reasonable  
10 investigation, a landlord's successor in interest has a good faith  
11 belief that the lawfully remaining security deposit is transferred  
12 to him or her or returned to the tenant pursuant to subdivision (h),  
13 he or she is not liable for damages as provided in subdivision (l),  
14 or any security not transferred pursuant to subdivision (h).

15 (k) Upon receipt of any portion of the security under paragraph  
16 (1) of subdivision (h), the landlord's successors in interest shall  
17 have all of the rights and obligations of a landlord holding the  
18 security with respect to the security.

19 (l) (1) The claim or retention by a landlord or the landlord's  
20 successors in interest of the security or any portion thereof in  
21 violation of this section, or the demand of replacement security in  
22 violation of subdivision (j), shall subject the landlord or the  
23 landlord's successors in interest to statutory damages of an amount  
24 equal to the amount of the security improperly withheld, in addition  
25 to actual damages.

26 (2) Notwithstanding paragraph (1), the bad faith claim or  
27 retention by a landlord or the landlord's successors in interest of  
28 the security or any portion thereof in violation of this section, or  
29 the bad faith demand of replacement security in violation of  
30 subdivision (j), shall subject the landlord or the landlord's  
31 successors in interest to statutory damages of up to twice the  
32 amount of the security, in addition to actual damages.

33 (3) The court shall award statutory damages pursuant to this  
34 subdivision whenever the facts warrant that award, regardless of  
35 whether the injured party has specifically requested relief. In any  
36 action under this section, the landlord or the landlord's successors  
37 in interest shall have the burden of proof as to the reasonableness  
38 of the amounts claimed or the authority pursuant to this section to  
39 demand additional security deposits.

1 (m) No lease or rental agreement may contain any provision  
2 characterizing any security as “nonrefundable.”

3 ~~(n) (1) From the commencement of the tenancy, interest on the~~  
4 ~~security held by the landlord shall accrue for each complete month~~  
5 ~~in which the security is held by the landlord at a rate based upon~~  
6 ~~the average annual interest rate for the last year published by the~~  
7 ~~Federal Reserve Board on its Internet Web site for a six-month~~  
8 ~~certificate of deposit~~

9 ~~(2) Interest on the security shall be paid to the tenant at the time~~  
10 ~~when the notice of initial inspection is required to be provided~~  
11 ~~pursuant to subdivision (f) or when the itemized statement is~~  
12 ~~required to be provided pursuant to subdivision (g), whichever is~~  
13 ~~earlier.~~

14 ~~(3) Interest on the security held by the landlord shall be paid to~~  
15 ~~the tenant separately from the payment of the underlying security~~  
16 ~~and may not be withheld.~~

17 ~~(4) This subdivision shall not apply in any city, county, or city~~  
18 ~~and county that by charter, ordinance, or regulation requires the~~  
19 ~~payment to tenants of interest on security, nor does it preempt a~~  
20 ~~local ordinance that requires the payment of security deposit~~  
21 ~~interest.~~

22 ~~(5) A tenant who is entitled to interest under this section but~~  
23 ~~who does not receive the interest payment by the time required~~  
24 ~~pursuant to paragraph (2) shall be entitled to statutory damages in~~  
25 ~~the amount of the interest withheld in addition to actual damages~~  
26 ~~or, in the case of bad faith withholding of interest, statutory~~  
27 ~~damages in the amount of twice the interest withheld in addition~~  
28 ~~to actual damages.~~

29 ~~(6) A landlord who is subject to this subdivision shall notify all~~  
30 ~~tenants regarding each tenant’s right to receive interest on his or~~  
31 ~~her security deposit. Notification shall be accomplished by any of~~  
32 ~~the following:~~

33 ~~(A) Posting a notice at a conspicuous location within the~~  
34 ~~residential premises.~~

35 ~~(B) Providing a written notice to the tenant at the time of~~  
36 ~~entering into a rental or lease agreement.~~

37 ~~(C) Sending by first-class mail a written notice to the tenant.~~

38 ~~(o) (1) A security deposit held by the landlord shall be deposited~~  
39 ~~in an account established and maintained solely for this purpose~~  
40 ~~on behalf of the tenant in a bank, credit union, or other financial~~

1 institution that is insured by an agency of the federal government.  
2 This account may include security deposits from multiple tenants.  
3 However, moneys from a security deposit shall not be commingled  
4 with the personal funds of the landlord. This account shall not be  
5 used except as authorized pursuant to this section.

6 ~~(2) The landlord shall within 20 days of receiving the security  
7 deposit provide written notification to the tenant with the name  
8 and address, whether physical or electronic, of the financial  
9 institution where the account was established.~~

10 ~~(3) Failure by a landlord to deposit the funds in a federally  
11 insured financial institution within 20 days of receiving the funds,  
12 or failure to disclose the location of the security deposit account  
13 within 20 days of a written request by a tenant, unless the location  
14 was disclosed as part of a written lease agreement, shall create a  
15 rebuttable presumption in any action under subdivision (l) that the  
16 challenged claim, retention, or demand was undertaken in bad  
17 faith.~~

18 ~~(p)~~

19 (n) Any action under this section may be maintained in small  
20 claims court if the damages claimed, whether actual or statutory  
21 or both, are within the jurisdictional amount allowed by Section  
22 116.220 or 116.221 of the Code of Civil Procedure.

23 ~~(q)~~

24 (o) Proof of the existence of and the amount of a security deposit  
25 may be established by any credible evidence, including, but not  
26 limited to, a canceled check, a receipt, a lease indicating the  
27 requirement of a deposit as well as the amount, prior consistent  
28 statements or actions of the landlord or tenant, or a statement under  
29 penalty of perjury that satisfies the credibility requirements set  
30 forth in Section 780 of the Evidence Code.

31 ~~(r)~~

32 (p) The amendments to this section made during the 1985  
33 portion of the 1985–86 Regular Session of the Legislature that are  
34 set forth in subdivision (e) are declaratory of existing law.

35 ~~(s)~~

36 (q) The amendments to this section made during the 2003  
37 portion of the 2003–04 Regular Session of the Legislature that are

- 1 set forth in paragraph (1) of subdivision (f) are declaratory of
- 2 existing law.

O