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HOUSE BILL 851

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Patsy G. Trujillo

AN ACT

RELATING TO PROPERTY; PROVIDING FOR ALL DEPOSITS MADE ON RENTAL UNITS TO ACCRUE INTEREST AT THE CURRENT RATE; AMENDING THE UNIFORM OWNER-RESIDENT RELATIONS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 47-8-18 NMSA 1978 (being Laws 1975, Chapter 38, Section 18, as amended) is amended to read:

"47-8-18. DEPOSITS. --

A. An owner is permitted to demand from the resident a reasonable deposit to be applied by the owner to recover damages, if any, caused to the premises by the resident during his term of residency.

(1) Under the terms of an annual rental agreement ~~[if the owner demands or receives of the resident such a deposit in an amount greater than one month's rent]~~ or

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 rental agreement for longer than one year, the owner shall be
2 required to pay to the resident annually an interest equal to
3 the passbook interest permitted to savings and loan
4 associations in this state by the federal home loan bank board
5 on such deposit.

6 (2) Under the terms of a rental agreement of
7 a duration less than one year, an owner shall not demand or
8 receive from the resident such a deposit in an amount in
9 excess of one month's rent.

10 B. It is not the intention of this section to
11 include the last month's prepaid rent, which may be required
12 by the rental agreement as a deposit as defined in Subsection
13 D of Section 47-8-3 NMSA 1978. Any deposit as defined in
14 Paragraph (1) of Subsection A of this section shall not be
15 construed as prepaid rent.

16 C. Upon termination of the residency, property or
17 money held by the owner as deposits may be applied by the
18 owner to the payment of rent and the amount of damages which
19 the owner has suffered by reason of the resident's
20 noncompliance with the rental agreement or Section 47-8-22
21 NMSA 1978. No deposit shall be retained to cover normal wear
22 and tear. In the event actual cause exists for retaining any
23 portion of the deposit, the owner shall provide the resident
24 with an itemized written list of the deductions from the
25 deposit and the balance of the deposit, if any, within thirty

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1 days of the date of termination of the rental agreement or
2 resident departure, whichever is later. The owner is deemed
3 to have complied with this section by mailing the statement
4 and any payment required to the last known address of the
5 resident. Nothing in this section shall preclude the owner
6 from retaining portions of the deposit for nonpayment of rent
7 or utilities, repair work or other legitimate damages.

8 D. If the owner fails to provide the resident with
9 a written statement of deductions from the deposit and the
10 balance shown by the statement to be due, within thirty days
11 of the termination of the tenancy, the owner:

12 (1) shall forfeit the right to withhold any
13 portion of the deposit;

14 (2) shall forfeit the right to assert any
15 counterclaim in any action brought to recover that deposit;

16 (3) shall be liable to the resident for court
17 costs and reasonable [~~attorneys'~~] attorney fees; and

18 (4) shall forfeit the right to assert an
19 independent action against the resident for damages to the
20 rental property.

21 E. An owner who in bad faith retains a deposit in
22 violation of this section is liable for a civil penalty in the
23 amount of two hundred fifty dollars (\$250) payable to the
24 resident. "