

FILED JAN 14 1974

Senate File 1004
Judiciary—
McCartney, Chairman
Kelly
Glenn

*1-14 - Pass per 2201
corrected - pass per 2290 2/28*

By DeKOSTER

Sub. for H. 7. 188

Passed Senate, Date 3-22-74 (976)

Passed House, Date 4-10-74 (1641)

Vote: Ayes 45 Nays 2

Vote: Ayes 83 Nays 9

Approved 5-28-74

*Passed Senate per Conference Comm. Report
4-29-74 (1681)
42-2*

*Passed House per Conference Committee Report
4-29-74 (2190)
79-6*

A BILL FOR

1 An Act relating to rental deposits, imposing liability and
2 providing penalties for violations.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Conference Committee Appointed

*Senator Patten, Burroughs,
DeKoster, Glenn, Miller*

*Representative Locke Ewing,
O'Halloran, Small, Foght*

1 Section 1. NEW SECTION. Any deposit of money to secure
2 the performance of a residential rental agreement, other than
3 a deposit which is exclusively an advance payment of rent,
4 shall be subject to the provisions of this section.

5 Sec. 2. NEW SECTION. A deposit of money shall be held
6 by the landlord for the tenant who is party to the agreement
7 and shall bear simple interest at the rate of five percent
8 per annum, computed from the first day of the next month
9 following the full payment of such deposit to the last day
10 of the month of termination of the tenancy. Any interest
11 amount of less than one dollar shall be exempt from the
12 provisions of this Act.

13 Sec. 3. NEW SECTION. A landlord shall, within two weeks
14 from the date of termination of the tenancy and receipt of
15 the tenant's mailing address or delivery instructions, return
16 the deposit to the tenant, with interest as provided in this
17 Act, or furnish to the tenant a written statement showing
18 the specific reason for withholding of the deposit or any
19 portion thereof. The landlord may withhold from the deposit
20 only such amounts as are reasonably necessary for the following
21 reasons:

22 1. To remedy a tenant's default in the payment of rent
23 or of other funds due to the landlord pursuant to an agreement.

24 2. To restore the premises to their condition at the
25 commencement of the tenancy, ordinary wear and tear excepted.

26 In an action concerning the deposit, the burden of proving,
27 by a preponderance of the evidence, the reason for withholding
28 all or any portion of the deposit shall be on the landlord.

29 Sec. 4. NEW SECTION. A landlord who fails to provide
30 a written statement within two weeks of termination of the
31 tenancy and receipt of the tenant's mailing address or delivery
32 instructions shall forfeit all rights to withhold any portion
33 of the deposit.

34 Sec. 5. NEW SECTION. Upon termination of a landlord's
35 interest in the premises, the landlord or his agent shall,

1 within a reasonable time, transfer the deposit, or any
2 remainder after any lawful deductions to the landlord's
3 successor in interest and notify the tenant of the transfer
4 and of the transferee's name and address or return the deposit,
5 or any remainder after any lawful deductions to the tenant.

6 Upon the termination of the landlord's interest in the
7 premises and compliance with the provisions of this section,
8 he shall be relieved of any further liability with respect
9 to the deposit.

10 Sec. 6. NEW SECTION. Upon termination of the landlord's
11 interest in the premises, the landlord's successor in interest
12 shall have all the rights and obligations of the landlord
13 with respect to such deposits, except that if the tenant does
14 not object to the stated amount within twenty days after
15 written notice to the tenant of the amount of deposit being
16 transferred or assumed, the obligations of the landlord's
17 successor to return the deposit shall be limited to the amount
18 contained in the notice. The notice shall contain a stamped
19 envelope addressed to landlord's successor and may be given
20 by mail or by personal service.

21 Sec. 7. NEW SECTION. The bad faith retention of a deposit
22 by a landlord, or any portion of the deposit, in violation
23 of this section shall subject the landlord to punitive damages
24 not to exceed two hundred dollars in addition to actual
25 damages. Failure by the landlord to provide the written
26 statement and to return the deposit within two weeks after
27 the commencement of any action for the recovery of the deposit
28 shall be presumed to be a bad faith retention by the landlord
29 of such deposit.

30 Sec. 8. NEW SECTION. Any attempted waiver of this sec-
31 tion by a landlord and tenant shall be void and unenforceable.

32 Sec. 9. NEW SECTION. The provisions of this Act shall
33 apply only to tenancies commencing or renewed on or after
34 July 1, 1974. For the purposes of this section, estates at
35 will shall be deemed to be renewed at the commencement of

1 each rental period.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

EXPLANATION

This bill provides protection for tenants of residential property who are required to make an advance deposit. The deposit must bear interest at a rate of 5% per annum, and when the rental agreement is terminated, the depositor must be given a written statement of any damages to be deducted from the deposit. The provisions of the bill may not be waived by contract.

S-2288

1 Amend Senate File 1004 as follows:
2 1. Page 2, by striking lines 5 through 12.
3 2. Page 2, line 13, by striking the words "two
4 weeks" and inserting in lieu thereof the words "fifteen
5 days".
6 3. Page 2, lines 16 and 17, by striking the words
7 "with interest as provided in this Act,".
8 4. Page 2, line 30, by striking the words "two
9 weeks" and inserting in lieu thereof the words "fifteen
10 days".
11 5. Page 3, line 26, by striking the word "and" and
12 inserting in lieu thereof the word "or" and by striking
13 the words "two weeks" and inserting in lieu thereof the
14 words "fifteen days".
15 6. Page 3, lines 30 and 31, by striking the word
16 "section" and inserting in lieu thereof the word "Act".
17 7. Page 4, by inserting after line 1 the following:
18 Sec. 10. NEW SECTION. If a tenant fails to provide
19 the landlord or his successor in interest with his
20 mailing address or delivery instructions or if he fails
21 to commence an action for recovery of his deposit, within
22 one year of the termination of the tenancy, the deposit
23 shall be forfeited to the landlord or his successor in
24 interest.

S-2288 Filed *Print out of order by* February 28, 1974 *rejection of 2289, 2290* By RAMSEY

S-2201

1 Amend Senate File 1004 as follows:
2 1. Page 2, by striking lines 5 through 12
3 and inserting in lieu thereof the following:
4 Sec. . NEW SECTION. A deposit of money shall
5 be held by the landlord for the tenant who is party
6 to the agreement. Every deposit shall remain the
7 property of the depositor until paid or applied to
8 payments due under the agreement, and the deposit
9 shall be held in trust for the depositor by the
10 owner. The owner shall place the deposit in a sep-
11 arate account identified as a trust account in a
12 bank or savings and loan association in this state
13 which is insured by an agency of the federal govern-
14 ment, and shall notify the depositor in writing of
15 the name and address of the bank or savings and loan
16 association which holds the deposit, and the amount
17 thereof.
18 2. Page 2, by striking from line 13 the words
19 "two weeks" and inserting in lieu thereof the words
20 "thirty days".
21 3. Page 2, by striking from line 30 the words
22 "two weeks" and inserting in lieu thereof the words
23 "thirty days".
24 4. Page 3, by striking from line 26 the words
25 "two weeks" and inserting in lieu thereof the words

Page 2

1 "thirty days".

S-2201 Filed *Lost 3/2* February 19, 1974

By DODERER

S—2289

1 Amend Senate File 1004, page 2, line 33, by adding
2 the following sentence after the word "deposit."
3 "If no mailing address or instructions are provided
4 to the landlord within one year from the termination
5 of the tenancy, the deposit shall revert to the
6 landlord and the tenant will be deemed to have for-
7 feited all rights to the deposit."

S—2289 Filed - *Adopted 3/3/74*
February 28, 1974

By DeKOSTER, RILEY and
McCARTNEY

S—2290

1 Amend Senate File 1004:
2 1. Page 2, line 13 by striking "two weeks"
3 and inserting in lieu thereof "thirty days".
4 2. Page 2, line 30 by striking "two weeks"
5 and inserting in lieu thereof "thirty days".
6 3. Page 3 by striking lines 25 through 29
7 and inserting in lieu thereof the following:
8 "damages."

S—2290 Filed - *Adopted 3/3/74*
February 28, 1974

By COMMITTEE ON JUDICIARY

S—2565

1 Amend the Doderer amendment S-2201, to Senate File
2 1004, as follows:
3 1. Page 1, by inserting the following amendments
4 after line 17:
5 _____ . Page 2, lines 16 and 17 by striking the
6 words "with interest as provided in this Act,".
7 _____ . Page 3, line 23 by striking the word
8 "section" and inserting in lieu thereof the word
9 "Act".
10 _____ . Page 3, lines 30 and 31 by striking the
11 word "section" and inserting in lieu thereof the
12 word "Act".

S—2565 Filed and adopted
March 22, 1974

By DODERER

S—2566

1 Amend the Doderer amendment S-2201, to Senate File
2 1004, as follows:
3 1. Page 1, line 5 by striking the words "tenant who
4 is" and inserting in lieu thereof the words "tenants
5 who are".

S—2566 Filed and withdrawn
March 22, 1974

By DODERER

S—2567

1 Amend Senate File 1004 as follows:
2 1. Page 3, line 23 by striking the word "section" and
3 inserting in lieu thereof the word "Act".
4 2. Page 3, lines 30 and 31 by striking the word
5 "section" and inserting in lieu thereof the word "Act".

S—2567 Filed and adopted
March 22, 1974

By DeKOSTER

HOUSE AMENDMENT TO SENATE FILE 1004

- 1 Amend Senate File 1004 as passed by the Senate as follows:
2 1. Page 2, line 4, by striking the word "section" and
3 inserting in lieu thereof the word "Act".
4 2. Page 2, by striking lines 5 through 12.
5 3. Page 2, by inserting after line 12 the following new
6 section:
7 Sec. _____. NEW SECTION. The deposit of money held by the
8 landlord for the tenant, who is a party to the agreement, shall
9 remain the property of the depositor until paid or applied to
10 payments due under the agreement, and the deposit shall be
11 held in trust for the depositor by the owner. The owner shall
12 place the deposit in an account identified as a trust account
13 in a bank or savings and loan association in this state which
14 is insured by an agency of the federal government, and shall
15 notify the depositor in writing of the name and address of
16 the bank or savings and loan association which holds the
17 deposit, and the amount thereof.
18 4. Page 2, lines 16 and 17, by striking the words ", with
19 interest as provided in this Act,".
20 5. Page 2, line 19, by inserting after the period the
21 following: "The list of damages must be itemized, listing
22 each item of damage and amount separately."
23 6. By renumbering the remaining sections.

Received from the House
April 11, 1974

*Senate refused to concur 4/16
House inserts 4/22*

S—2779

- 1 Amend the House Amendment to Senate File 1004
2 by striking lines 5 through 17.

S—2779 Filed and lost
April 16, 1974

By BLOUIN

REPORT OF THE CONFERENCE COMMITTEE
ON SENATE FILE 1004

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to consider the difference between the Senate and the House of Representatives on Senate File 1004, a bill for an Act relating to rental deposits, imposing liability and providing penalties for violations, respectfully make the following recommendations:

That the House recede from amendments 2, 3, and 5 of the House amendment to Senate File 1004.

That the House amendment to Senate File 1004 be further amended as follows:

1. By inserting after line 3 the following amendment: _____ Page 2, by striking lines 5 through 12 and inserting in lieu thereof the following new section:

Sec. _____. NEW SECTION. All deposits of money shall be held by the landlord for the tenant, who is a party to the agreement, in a bank or savings and loan association which is insured by an agency of the federal government. Such deposits shall not be commingled with the personal funds of the landlord. Notwithstanding the provisions of chapter one hundred seventeen (117) of the Code, all such deposits of money may be held in a trust account, which may be a common trust account and which may be an interest bearing trust account. Any interest earned on a deposit of money shall be the property of the landlord.

2. By inserting after line 19 the following amendment: _____ Page 2, line 19, by inserting after the "period" the following sentence: If the deposit or any portion of the deposit is withheld for the restoration of the premises, the statement shall specify the nature of the damages.

On the part of the Senate:

RALPH W. POTTER, CHAIRMAN
CLIFF BURROUGHS
LUCAS J. DeKOSTER
GENE W. GLENN
CHARLES P. MILLER

On the part of the House:

GEORGE J. KNOKE, CHAIRMAN
WILLIAM E. EWING
MARY T. O'HALLORAN
ARTHUR A. SMALL, JR.
SEMOR C. TOFTE

*Senate adopted 4/29
House adopted 4/29*

H-2659

1 Amend Senate File 1004, as passed by the
2 Senate, as follows:
3 1. Page 2, line 4, by striking the word
4 "section" and inserting in lieu thereof the word
5 "Act".
6 2. Page 2, by striking lines 5 through 12.
7 3. Page 2, lines 16 and 17, by striking
8 the words "with interest as provided in this Act,".
9 4. Page 3, line 23, by striking the word
10 "section" and inserting in lieu thereof the word
11 "Act".
12 5. Page 3, lines 30 and 31, by striking
13 the word "section" and inserting in lieu thereof
14 the word "Act".

H-2659 Filed *1, 2, 3. Adopted 4/10* By HILL of Polk
March 27, 1974 *4, 5. Withdrawn* TOFTE of Winneshiek

H-2785

1 Amend Senate File 1004, as passed by the Senate,
2 as follows:
3 1. Page 2, by inserting after line 12 the follow-
4 ing new section:
5 "Sec. _____. NEW SECTION. The deposit of money
6 held by the landlord for the tenant, who is a party
7 to the agreement, shall remain the property of the
8 depositor until paid or applied to payments due under
9 the agreement, and the deposit shall be held in trust
10 for the depositor by the owner. The owner shall
11 place the deposit in an account identified as a trust
12 account in a bank or savings and loan association in
13 this state which is insured by an agency of the
14 federal government, and shall notify the depositor
15 in writing of the name and address of the bank or
16 savings and loan association which holds the deposit,
17 and the amount thereof."
18 2. By renumbering the remaining sections.

H-2785 Filed *Adopted 4/10* By SMALL of Johnson
April 5, 1974 JUNKER of Woodbury
McCORMICK of Delaware

H-2826

1 Amend Senate File 1004, as passed by the Senate,
2 as follows:
3 Page 2, line 19, by inserting after the period in
4 that line the following: "The list of damages must
5 be itemized, listing each item of damage and amount
6 separately."

H-2826 Filed and adopted By PATCHETT of Johnson
April 10, 1974 KNOKE of Pottawattamie

AN ACT

RELATING TO RENTAL DEPOSITS, IMPOSING LIABILITY AND PROVIDING PENALTIES FOR VIOLATIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. Any deposit of money to secure the performance of a residential rental agreement, other than a deposit which is exclusively an advance payment of rent, shall be subject to the provisions of this Act.

Sec. 2. NEW SECTION. All deposits of money shall be held by the landlord for the tenant, who is a party to the agreement, in a bank or savings and loan association which is insured by an agency of the federal government. Such deposits shall not be commingled with the personal funds of the landlord. Notwithstanding the provisions of chapter one hundred seventeen (117) of the Code, all such deposits of money may be held in a trust account, which may be a common trust account and which may be an interest bearing trust account. Any interest earned on a deposit of money shall be the property of the landlord.

Sec. 3. NEW SECTION. A landlord shall, within thirty days from the date of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions, return the deposit to the tenant or furnish to the tenant a written statement showing the specific reason for withholding of the deposit or any portion thereof. If the deposit or any portion of the deposit is withheld for the restoration of the premises, the statement shall specify the nature of the damages. The landlord may withhold from the deposit only such amounts as are reasonably necessary for the following reasons:

1. To remedy a tenant's default in the payment of rent or of other funds due to the landlord pursuant to an agreement.

2. To restore the premises to their condition at the commencement of the tenancy, ordinary wear and tear excepted.

In an action concerning the deposit, the burden of proving, by a preponderance of the evidence, the reason for withholding all or any portion of the deposit shall be on the landlord.

Sec. 4. NEW SECTION. A landlord who fails to provide a written statement within thirty days of termination of the tenancy and receipt of the tenant's mailing address or delivery instructions shall forfeit all rights to withhold any portion of the deposit. If no mailing address or instructions are provided to the landlord within one year from the termination of the tenancy, the deposit shall revert to the landlord and the tenant will be deemed to have forfeited all rights to the deposit.

Sec. 5. NEW SECTION. Upon termination of a landlord's interest in the premises, the landlord or his agent shall, within a reasonable time, transfer the deposit, or any remainder after any lawful deductions to the landlord's successor in interest and notify the tenant of the transfer and of the transferee's name and address or return the deposit, or any remainder after any lawful deductions to the tenant.

Upon the termination of the landlord's interest in the premises and compliance with the provisions of this section, he shall be relieved of any further liability with respect to the deposit.

Sec. 6. NEW SECTION. Upon termination of the landlord's interest in the premises, the landlord's successor in interest shall have all the rights and obligations of the landlord with respect to such deposits, except that if the tenant does not object to the stated amount within twenty days after written notice to the tenant of the amount of deposit being transferred or assumed, the obligations of the landlord's successor to return the deposit shall be limited to the amount contained in the notice. The notice shall contain a stamped envelope addressed to landlord's successor and may be given by mail or by personal service.

Sec. 7. NEW SECTION. The bad faith retention of a deposit by a landlord, or any portion of the deposit, in violation of this Act shall subject the landlord to punitive damages not to exceed two hundred dollars in addition to actual damages.

Sec. 8. NEW SECTION. Any attempted waiver of this Act by a landlord and tenant shall be void and unenforceable.

Sec. 9. NEW SECTION. The provisions of this Act shall apply only to tenancies commencing or renewed on or after July 1, 1974. For the purposes of this section, estates at will shall be deemed to be renewed at the commencement of each rental period.

ARTHUR A. NEU
President of the Senate

ANDREW VARLEY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 1004, Sixty-fifth General Assembly.

RALPH R. BROWN
Secretary of the Senate

Approved 5/28, 1974

ROBERT D. RAY
Governor