



General Assembly

February Session, 2016

***Raised Bill No. 171***

LCO No. 311



Referred to Committee on BANKING

Introduced by:  
(BA)

***AN ACT CONCERNING ADVANCE RENTAL PAYMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47a-21 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2016*):

3 (a) As used in this chapter:

4 (1) "Commissioner" means the Banking Commissioner.

5 (2) "Escrow account" means any account at a financial institution  
6 which is not subject to execution by the creditors of the person in  
7 whose name such account is maintained and includes a clients' funds  
8 account.

9 (3) "Escrow agent" means the person in whose name an escrow  
10 account, including a clients' funds account, is maintained.

11 (4) "Financial institution" means any state bank and trust company,  
12 national bank, savings bank, federal savings bank, savings and loan  
13 association, and federal savings and loan association that is located in

14 this state.

15 (5) "Forwarding address" means the address to which a security  
16 deposit may be mailed for delivery to a former tenant.

17 (6) "Landlord" means any landlord of residential real property, and  
18 includes (A) any receiver; (B) any person who is a successor to a  
19 landlord or to a landlord's interest; and (C) any tenant who sublets his  
20 premises.

21 (7) "Receiver" means any person who is appointed or authorized by  
22 any state, federal or probate court to receive rents from tenants, and  
23 includes trustees, executors, administrators, guardians, conservators,  
24 receivers, and receivers of rent.

25 (8) "Rent receiver" means a receiver who lacks court authorization to  
26 return security deposits and to inspect the premises of tenants and  
27 former tenants.

28 (9) "Residential real property" means real property containing one  
29 or more residential units, including residential units not owned by the  
30 landlord, and containing one or more tenants who paid a security  
31 deposit.

32 (10) "Security deposit" means any advance rental payment other  
33 than an advance payment for the first month's rent and a deposit for a  
34 key or any special equipment.

35 (11) "Successor" to a landlord or to a landlord's interest means any  
36 person who succeeds to a landlord's interest whether by purchase,  
37 foreclosure or otherwise and includes a receiver.

38 (12) "Tenant" means a tenant, as defined in section 47a-1, or a  
39 resident, as defined in section 21-64.

40 (13) "Tenant's obligations" means (A) the amount of any rental or  
41 utility payment due the landlord from a tenant; and (B) a tenant's

42 obligations under the provisions of section 47a-11.

43 (b) (1) In the case of a tenant under sixty-two years of age, a  
44 landlord shall not demand a security deposit in an amount or value in  
45 excess of two months' periodic rent which may be in addition to the  
46 current month's rent.

47 (2) In the case of a tenant sixty-two years of age or older, a landlord  
48 shall not demand a security deposit in an amount or value in excess of  
49 one month's periodic rent, which may be in addition to the current  
50 month's rent. Upon the request of a tenant sixty-two years of age or  
51 older, any landlord who has received from such tenant a security  
52 deposit in an amount or value in excess of one month's periodic rent  
53 shall refund to such tenant the portion of such security deposit that  
54 exceeds one month's periodic rent.

55 (c) Any security deposit paid by a tenant shall remain the property  
56 of such tenant in which the landlord and his successor shall have a  
57 security interest, as defined in subdivision (35) of subsection (b) of  
58 section 42a-1-201, to secure such tenant's obligations. A security  
59 deposit shall be exempt from attachment and execution by the  
60 creditors of the landlord or his successor and shall not be considered  
61 part of the estate of the landlord or his successor in any legal  
62 proceeding. Any voluntary or involuntary transfer of a landlord's  
63 interest in residential real estate to a successor shall constitute an  
64 assignment to such successor of such landlord's security interest in all  
65 security deposits paid by tenants of such transferred residential real  
66 estate.

67 (d) (1) Within the time specified in subdivisions (2) and (4) of this  
68 subsection, the person who is the landlord at the time a tenancy is  
69 terminated, other than a rent receiver, shall pay to the tenant or former  
70 tenant: (A) The amount of any security deposit that was deposited by  
71 the tenant with the person who was landlord at the time such security  
72 deposit was deposited less the value of any damages which any person

73 who was a landlord of such premises at any time during the tenancy of  
74 such tenant has suffered as a result of such tenant's failure to comply  
75 with such tenant's obligations; and (B) any accrued interest due on  
76 such security deposit as required by subsection (i) of this section. If the  
77 landlord at the time of termination of a tenancy is a rent receiver, such  
78 rent receiver shall return security deposits in accordance with the  
79 provisions of subdivision (3) of this subsection.

80 (2) Upon termination of a tenancy, any tenant may notify his  
81 landlord in writing of such tenant's forwarding address. Within thirty  
82 days after termination of a tenancy, each landlord other than a rent  
83 receiver shall deliver to the tenant or former tenant at such forwarding  
84 address either (A) the full amount of the security deposit paid by such  
85 tenant plus accrued interest as provided in subsection (i) of this  
86 section, or (B) the balance of the security deposit paid by such tenant  
87 plus accrued interest as provided in subsection (i) of this section after  
88 deduction for any damages suffered by such landlord by reason of  
89 such tenant's failure to comply with such tenant's obligations, together  
90 with a written statement itemizing the nature and amount of such  
91 damages. Any such landlord who violates any provision of this  
92 subsection shall be liable for twice the amount or value of any security  
93 deposit paid by such tenant. [ , except that, if the violation is the failure  
94 to deliver the accrued interest, such landlord shall only be liable for  
95 twice the amount of such accrued interest.]

96 (3) (A) Any receiver who is authorized by the court appointing him  
97 receiver to return security deposits and to inspect the premises of any  
98 tenant shall pay security deposits and interest in accordance with the  
99 provisions of subdivisions (1) and (2) of this subsection from the  
100 operating income of such receivership to the extent that any such  
101 payments exceed the amount in any escrow accounts for such tenants.  
102 (B) Any rent receiver shall present any claim by any tenant for return  
103 of a security deposit to the court which authorized him to be a rent  
104 receiver. Such court shall determine the validity of any such claim and  
105 shall direct such rent receiver to pay from the escrow account or from

106 the operating income of such property the amount due such tenant as  
107 determined by such court.

108 (4) Any landlord who does not have written notice of his tenant's or  
109 former tenant's forwarding address shall deliver any written statement  
110 and security deposit due to the tenant, as required by subdivision (2)  
111 of this subsection, within the time required by subdivision (2) of this  
112 subsection or within fifteen days after receiving written notice of such  
113 tenant's forwarding address, whichever is later.

114 (e) A successor, other than a receiver, to a landlord's interest in  
115 residential real property shall be liable for the claims of tenants of such  
116 property for return of any part of such security deposit which is or  
117 becomes due to such tenant during the time such successor is a  
118 landlord. A receiver's liability for payment of security deposits and  
119 interest under this section shall be limited to the balance in any escrow  
120 account for such tenants maintained by such receiver in such  
121 receivership in accordance with subsection (h) of this section and to the  
122 operating income generated in such receivership.

123 (f) Any landlord who is not a resident of this state shall appoint in  
124 writing the Secretary of the State as his attorney upon whom all  
125 process in any action or proceeding against such landlord may be  
126 served.

127 (g) Any person may bring an action in replevin or for money  
128 damages in any court of competent jurisdiction to reclaim any part of  
129 his security deposit which may be due. This section does not preclude  
130 the landlord or tenant from recovering other damages to which he may  
131 be entitled.

132 (h) (1) Each landlord shall immediately deposit the entire amount of  
133 all security deposits received by him on or after October 1, 1979, from  
134 his tenants into one or more escrow accounts for such tenants in a  
135 federally insured financial institution. Such landlord shall be escrow  
136 agent of such account. [Within seven days after] Not later than seven

137 days after the commissioner makes a written request [by the  
138 commissioner] for the name of each financial institution in which any  
139 such escrow accounts are maintained, [and] the account number of  
140 each such escrow account or any other information related to a tenant's  
141 security deposit, a landlord shall deliver such requested information to  
142 the commissioner.

143 (2) Each landlord and each successor to the landlord's interest shall  
144 maintain each such account as escrow agent and shall not withdraw  
145 from such account the amount of any security deposit or the accrued  
146 interest on such amount [, as provided in] that is payable or creditable  
147 pursuant to subsection (i) of this section, [that is in any escrow account  
148 from such account] except as provided in this section.

149 (3) (A) Whenever any real estate is voluntarily or involuntarily  
150 transferred from a landlord, other than a receiver, to his successor,  
151 including a receiver, such landlord shall withdraw from the escrow  
152 account and deliver to his successor the entire amount of security  
153 deposits paid by tenants of the property being transferred, plus  
154 accrued interest provided for in subsection (i) of this section. If at the  
155 time of transfer of such real estate the funds in such account are  
156 commingled with security deposits paid by tenants in real estate not  
157 being transferred to such successor, and if at such time the funds in  
158 such account are less than the amount of security deposits paid by all  
159 tenants whose security deposits are contained in such account, such  
160 landlord shall deliver to such successor a pro rata share of security  
161 deposits paid by tenants of the real estate being transferred to such  
162 successor. Any successor to a landlord shall immediately deposit the  
163 entire amount of funds delivered to him in accordance with this  
164 subdivision into an escrow account as provided in subdivision (l) of  
165 this subsection and shall maintain such account as escrow agent in  
166 accordance with the provisions of this section. (B) Whenever any real  
167 estate is transferred from a receiver to his successor, such receiver shall  
168 dispose of the escrow accounts as ordered by the court which  
169 appointed him receiver. The order of such court shall provide for the

170 priority of the present and future rights of tenants to security deposits  
171 paid by them over the rights of any secured or unsecured creditor of  
172 any person and shall provide that the funds in such account shall be  
173 delivered to the successor of such receiver for immediate deposit in an  
174 escrow account for tenants who paid security deposits.

175 (4) No person shall withdraw funds from any escrow account except  
176 as follows: (A) Within the time specified in subsection (d) of this  
177 section, each escrow agent shall withdraw and disburse the amount of  
178 any security deposit due to any tenant upon the termination of such  
179 tenancy, in accordance with subsection (d) of this section, together  
180 with accrued interest thereon as provided in subsection (i) of this  
181 section; [ ~~(B) At~~] (B) at the time provided for in subsection (i) of this  
182 section, each escrow agent shall withdraw from such account and pay  
183 to each tenant any accrued interest due and payable to any tenant in  
184 accordance with the provisions of said subsection; [ ~~(C) The~~] (C) the  
185 escrow agent may withdraw and personally retain interest credited to  
186 and not previously withdrawn from such account to the extent such  
187 interest exceeds the amount of interest being earned by tenants as  
188 provided in subsection (i) of this section; [ ~~(D) The~~] (D) the escrow  
189 agent may withdraw and personally retain the amount of damages  
190 withheld, in accordance with [~~the provisions of~~] subsection (d) of this  
191 section, from payment of a security deposit to a tenant; [ ~~(E) The~~] (E)  
192 the escrow agent may at any time during a tenancy withdraw and pay  
193 to a tenant all or any part of a security deposit together with accrued  
194 interest on such amount as provided in subsection (i) of this section; [ ~~(F) The~~] (F) the  
195 escrow agent shall withdraw and disburse funds in  
196 accordance with the provisions of subdivision (3) of this subsection; [ ~~(G) The~~] and (G) the  
197 escrow agent may transfer any escrow account  
198 from one financial institution to another and may transfer funds from  
199 one escrow account to another provided that all security deposits in  
200 escrow accounts remain continuously in escrow accounts.

201 (5) Not later than thirty days after (A) receiving the security deposit  
202 from the tenant, (B) moving the deposit from one institution to

203 another, (C) moving the funds from one account to another account, or  
204 (D) transferring or conveying ownership or control of the property, the  
205 landlord shall deliver, in writing, to each of the persons making such  
206 security deposit, the name and address of the financial institution in  
207 which the security deposit is deposited, the type of account in which  
208 the security deposit is deposited and the amount of such deposit.

209 (6) Upon failure of the landlord to provide the information required  
210 under subdivision (5) of this subsection or to deposit the security  
211 deposit in the manner required under this subsection, the tenant may  
212 give written notice to the landlord to apply the security deposit or  
213 accrued interest to current or future rent payments. The landlord shall  
214 have fifteen days following receipt of the written notice to cure such  
215 failure by complying with the requirements of this subsection. If the  
216 landlord fails to comply with such requirements on or before the  
217 expiration of the fifteen-day time period, the tenant shall be without  
218 obligation to make any additional security deposits and the landlord  
219 shall not be entitled to make any demands for an additional security  
220 deposit. Nothing in this subdivision shall relieve the tenant from the  
221 obligation to make payments that may become due to the landlord  
222 during the fifteen-day time period established by this subdivision.

223 (i) (1) On and after July 1, 1993, each landlord other than a landlord  
224 of a residential unit in any building owned or controlled by any  
225 educational institution and used by such institution for the purpose of  
226 housing students of such institution and their families, and each  
227 landlord or owner of a mobile manufactured home or of a mobile  
228 manufactured home space or lot or park, as such terms are defined in  
229 subdivisions (1), (2) and (3) of section 21-64, shall pay interest on each  
230 security deposit received by such landlord at a rate of not less than the  
231 average rate paid, as of December 30, 1992, on savings deposits by  
232 insured commercial banks as published in the Federal Reserve Board  
233 Bulletin rounded to the nearest one-tenth of one percentage point,  
234 except in no event shall the rate be less than one and one-half per cent.  
235 On and after January 1, 1994, the rate for each calendar year shall be

236 not less than the deposit index, as defined in subdivision [(2)] (3) of  
237 this subsection, for that year, except in no event shall the rate be less  
238 than one and one-half per cent. On and after January 1, 2012, the rate  
239 for each calendar year shall be not less than the deposit index, as  
240 defined in subdivision [(2)] (3) of this subsection, for that year. On the  
241 anniversary date of the tenancy and annually thereafter, such interest  
242 shall be paid to the tenant or resident or credited toward the next  
243 rental payment due from the tenant or resident, as the landlord or  
244 owner shall determine, or the tenant may, by delivering a written  
245 statement to the landlord at any time, elect to defer receipt of such  
246 interest until the termination of the tenancy, in which case such  
247 interest shall be compounded annually. If the tenancy is terminated  
248 before the anniversary date of such tenancy, or if the landlord or  
249 owner returns all or part of a security deposit prior to termination of  
250 the tenancy, the landlord or owner shall pay the accrued interest to the  
251 tenant or resident not later than thirty days after such termination or  
252 return. In any case where a tenant or resident has been delinquent for  
253 more than ten days in the payment of any monthly rent, such resident  
254 or tenant shall forfeit any interest that would otherwise be payable to  
255 such resident or tenant for that month, except that there shall be no  
256 such forfeiture if, pursuant to a provision of the rental agreement, a  
257 late charge is imposed for failure to pay such rent within the time  
258 period provided by section 47a-15a. No landlord or owner shall  
259 increase the rent due on any quarters or property subject to the  
260 provisions of this section because of the requirement that interest be  
261 paid on any security deposit made with respect to such quarters or  
262 property.

263 (2) Any landlord who violates any provision of this subsection shall  
264 be liable for twice the amount or value of any interest paid by such  
265 tenant. The amount for which a landlord is liable under this  
266 subdivision shall be compounded annually.

267 [(2)] (3) The commissioner shall publish the rate that takes effect  
268 July 1, 1993, in the Department of Banking news bulletin no later than

269 July 15, 1993. The deposit index for each calendar year shall be equal to  
270 the average rate paid on savings deposits by insured commercial  
271 banks as last published in the Federal Reserve Board Bulletin in  
272 November of the prior year. The commissioner shall determine the  
273 deposit index for each calendar year and publish such deposit index in  
274 the Department of Banking news bulletin no later than December  
275 fifteenth of the prior year. The commissioner shall also cause such rates  
276 to be disseminated in a manner designed to come to the attention of  
277 landlords and tenants including, but not limited to, the issuance of  
278 press releases and public service announcements, the encouragement  
279 of news stories in the mass media and the posting of conspicuous  
280 notices at financial institutions. For purposes of this subsection,  
281 "Federal Reserve Board Bulletin" means the monthly survey of selected  
282 deposits published as a special supplement to the Federal Reserve  
283 Statistical Release Publication H.6 published by the Board of  
284 Governors of the Federal Reserve System or, if such bulletin is  
285 superseded or becomes unavailable, a substantially similar index or  
286 publication.

287 (j) (1) The commissioner may receive and investigate complaints  
288 regarding any alleged violation of subsections (b), (d), (h) or (i) of this  
289 section, provided the commissioner shall not have jurisdiction over the  
290 refusal or other failure of any landlord to return all or part of a security  
291 deposit if such failure results from the landlord's good faith claim that  
292 the landlord has suffered damages as a result of a tenant's failure to  
293 comply with such tenant's obligations whether or not the existence or  
294 amount of alleged damages is disputed by the tenant. For purposes of  
295 this section a good faith claim is deemed to be a claim for actual  
296 damages suffered by the landlord for which written notification of  
297 such damages has been given to the tenant in accordance with the  
298 provisions of subdivisions (1), (2) and (4) of subsection (d) of this  
299 section. For the purposes of such investigation, any person who is or  
300 was a landlord shall be subject to the provisions of section 36a-17.

301 (2) If the commissioner determines that any landlord has violated

302 any provision of this section over which the commissioner has  
303 jurisdiction, the commissioner may, in accordance with section 36a-52,  
304 order such person to cease and desist from such practices and to  
305 comply with the provisions of this section.

306 (3) The commissioner may adopt regulations, in accordance with  
307 chapter 54, to carry out the purposes of this section.

308 (k) (1) Any person who is a landlord at the time of termination of a  
309 tenancy and who knowingly and wilfully fails to pay all or any part of  
310 a security deposit when due shall be subject to a fine of not more than  
311 two hundred fifty dollars for each offense, provided it shall be an  
312 affirmative defense under this subdivision that such failure was  
313 caused by such landlord's good faith belief that he was entitled to  
314 deduct the value of damages he has suffered as a result of such  
315 tenant's failure to comply with such tenant's obligations.

316 (2) Any person who knowingly and wilfully violates the provisions  
317 of subsection (h) of this section on or after October 1, 1979, shall be  
318 subject to a fine of not more than five hundred dollars or  
319 imprisonment of not more than thirty days or both for each offense. It  
320 shall be an affirmative defense under the provisions of this subdivision  
321 that at the time of the offense, such person leased residential real  
322 property to fewer than four tenants who paid a security deposit.

323 (3) Any person who is a landlord at the time an interest payment is  
324 due under the provisions of subsection (i) of this section and who  
325 knowingly and wilfully violates the provisions of such subsection shall  
326 be subject to a fine of not more than one hundred dollars for each  
327 offense.

328 (4) No financial institution shall be liable for any violation of this  
329 section except for any violation in its capacity as a landlord or  
330 successor to a landlord's interest.

331 (l) Nothing in this section shall be construed as a limitation upon: (1)

332 The power or authority of the state, the Attorney General or the  
333 commissioner to seek administrative, legal or equitable relief  
334 permitted by the general statutes or at common law; or (2) the right of  
335 any tenant to bring a civil action permitted by the general statutes or at  
336 common law.

337 Sec. 2. Subsection (e) of section 3-70a of the 2016 supplement to the  
338 general statutes is repealed and the following is substituted in lieu  
339 thereof (*Effective July 1, 2016*):

340 (e) In the case of any claim allowed under this section for property,  
341 funds or money delivered to the Treasurer pursuant to subdivision (1)  
342 or (2) of subsection (a) of section 3-57a, the Treasurer shall pay such  
343 claim with interest as follows: For each calendar year or portion  
344 thereof that the property, funds or money has been paid or delivered  
345 to the Treasurer, the Treasurer shall pay interest at the deposit index  
346 rate determined and published by the Banking Commissioner not later  
347 than December fifteenth of the preceding calendar year pursuant to  
348 subdivision [(2)] (3) of subsection (i) of section 47a-21, as amended by  
349 this act. Such interest shall accrue from the date of payment or delivery  
350 of the property, funds or money to the Treasurer until the date of  
351 payment or delivery of the property, funds or money to the claimant.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2016</i>	47a-21
Sec. 2	<i>July 1, 2016</i>	3-70a(e)

**Statement of Purpose:**

To provide greater protection to tenants and to reduce the current burden on landlords.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*