



Security Deposit Toolkit eBook

Table of Contents

| | |
|--|-----------|
| Introduction | i |
| Disclaimer | ii |
| I. Understanding California’s Security Deposit Law | 1 |
| II. Recovering Your Security Deposit..... | 6 |
| A. Step 1: Preparing Your Move Out Letter and Requesting an Initial Inspection..... | 7 |
| B. Step 2: Appearing for the Initial Inspection. | 9 |
| C. Step 3: Cleaning the Rental Unit and Addressing Any Identified Repairs..... | 10 |
| D. Step 4: Returning the Keys, Garage Door Opener, and Any Other Applicable Items on or Before the Date Your Tenancy Terminates. | 10 |
| E. Step 5: If Your Landlord Has Not Returned Your Security Deposit Within Twenty-One Days, Sending a Second Letter..... | 11 |
| F. Step 6: If Your Landlord Does Not Return The Balance Of Your Security Deposit By The Date Stated In Your Letter, Decide Whether to Pursue This Matter In Small Claims Court. ... | 12 |
| III. Preparing for and Attending Your Small Claims Court Trial..... | 14 |
| A. Preparing Plaintiff’s Claim and ORDER to Go To Small Claims Court..... | 14 |
| B. Filing Plaintiff’s Claim and ORDER to Go To Small Claims Court..... | 16 |
| C. Arranging for Service of Plaintiff’s Claim and ORDER to Go To Small Claims Court | 17 |
| D. Filing a Proof of Service | 19 |
| E. Preparing for Trial | 19 |
| F. Attending Trial | 21 |
| IV. Enforcing Your Judgment | 23 |
| V. Getting Additional Help..... | 25 |
| California Civil Code § 1950.5..... | 26 |
| San Francisco Administrative Code § 49.2 | 32 |

Introduction

What is a California renter to do? Over the course of your tenancy, you kept your rental unit in excellent condition, always (or almost always) paid your rent on time, and were otherwise a trustworthy, responsible tenant. You gave your notice to vacate and left your rental unit in pristine condition. Now your landlord is unreasonably refusing to return most or all of your security deposit.

Do you write an angry letter? Hire a lawyer? Take other action? For most tenants, the amount withheld by the landlord makes it economically impractical to hire a lawyer (i.e., why pay a \$2,500.00 retainer to recover a \$2,000.00 security deposit?), resigning many renters to eat the cost and move on.

Enter the Security Deposit Toolkit, a packet consisting of an eBook, sample forms, sample letters, and instructional videos intended to empower California tenants to recover their security deposits without having to spend hundreds or thousands of dollars on a lawyer. This eBook provides no-nonsense, plain-English summaries of the law, and a game plan for recovering your security deposit—up to and including the filing of a complaint in Small Claims Court.

This eBook is divided into five principal chapters. The first, entitled “Understanding California’s Security Deposit Law,” tells you everything you need to know about security deposits in California. The second, entitled “Recovering Your Security Deposit,” describes our recommended strategy. The third, entitled “Preparing for and Attending Your Small Claims Court Trial,” explains exactly what you need to do if you decide to take your landlord to Small Claims Court. The fourth chapter, entitled “Enforcing Your Judgment,” explains how to collect your security deposit after you win a judgment against your landlord. And the final chapter, entitled “Getting Additional Help,” explains how you can get additional support.

Thank you for purchasing this Security Deposit Toolkit. We believe you will find it to be a worthwhile investment. And, of course, we wish you the best of luck in recovering your security deposit.

The Security Deposit Toolkit Team

Disclaimer

Security Deposit Toolkit, Inc. is a legal publishing and document automation company that provides self-help services to tenants to assist them with recovering residential security deposits wrongfully withheld by landlords. Security Deposit Toolkit, Inc. is not a law firm or a substitute for an attorney or law firm, and cannot provide any kind of advice, explanation, opinion, or recommendation about possible legal rights, remedies, defenses, options, selection of forms, or strategies.

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I. Understanding California's Security Deposit Law

Fortunately, just about everything you need to know about security deposits for residential tenancies in California is set forth at California Civil Code section 1950.5, which appears in full at the end of this eBook. Rather than dissect every subsection of the law, find below the key points of interest to most renters, arranged in FAQ format:

Q: What can a landlord use my security deposit for?

A: Although a security deposit may be used “for any purpose,” four are specifically identified: (1) landlord reimbursement for a tenant’s rent default, (2) repair of damages to the rental unit, exclusive of ordinary wear and tear, caused by the tenant or guests, (3) cleaning costs necessary to return the rental unit to the same level of cleanliness it was in at the start of the tenancy, and (4) if authorized by the lease, payment of any tenant default to restore, replace, or return personal property or appurtenances, exclusive of ordinary wear and tear.¹

Q: When I move out, does the law specify what I’m financially responsible for and what my landlord is financially responsible for?

A: Yes. When you return possession of the rental property to your landlord, you are responsible for returning it in the same condition in which you received it LESS “ordinary wear and tear.”² In other words, the landlord must pay all costs associated with remedying “ordinary wear and tear.” Unfortunately, “ordinary wear and tear” is not specified. The discoloring of paint; wearing down of rugs; minor scratches and nicks on walls and countertops; etc. likely constitute “ordinary wear and tear,” for which the landlord is financially responsible. A large gaping hole in the wall caused by a rowdy friend at a party or a broken window caused by a toddler throwing a baseball through it likely do not constitute “ordinary wear and tear,” and the tenant will be financially responsible. Reasonable people can disagree as to what does and does not constitute “ordinary wear and tear,” which in turn determines who is responsible for the repairs. This is why tenants should always request a final inspection from the landlord before moving out. (More below. See also the document, “California Security Deposit Deduction Guidelines,” included with this Toolkit.)

¹ See Cal. Civ. Code § 1950.5(b)(1)–(4).

² See Cal. Civ. Code § 1950.5(b)(2), (e).

Q: Am I required to steam-clean the carpeting?

*A: If carpeting had been steam-cleaned prior to the start of your tenancy, probably. Again, the tenant must return the rental unit to the landlord it in the **same** condition in which he or she received it LESS “ordinary wear and tear.”³ Assuming the carpeting had been steam-cleaned prior to the start of the tenancy, holding the tenant financially responsible for the steam-cleaning of the carpeting is consistent with the language of the law. Holding the financially tenant responsible for replacing the carpeting due to ordinary wear and tear is not.*

Q: Is there a limit as to how much my landlord can charge for a residential security deposit?

*A: Yes. For an unfurnished residential rental unit, a landlord cannot demand a security deposit in an amount in excess of **two months’ rent**.⁴ For a furnished residential rental unit, a landlord cannot demand a security deposit in an amount in excess of **three months’ rent**.⁵ A landlord may require payment of the first month’s rent separate and apart from the security deposit prior to move-in.*

Q: Does a landlord have to pay interest on my security deposit?

A: Not under California law. However, local rent ordinances may require landlords to do so. For example, landlords of rental units subject to the San Francisco Residential Rent Stabilization and Arbitration Ordinance are required to pay interest on security deposits.⁶

Q: After a tenant has given a landlord notice of an intention to terminate the tenancy, is the landlord required to perform an initial inspection to determine what charges, if any, would be deducted from the tenant’s security deposit?

*A: **Only if the tenant requests it.** Within a reasonable time after notification of either party’s intention to terminate the tenancy, or before the end of the lease term, the landlord **must** notify the tenant in writing of the option to request an initial inspection and of the right to be present at the inspection.⁷ **If the tenant***

³ See Cal. Civ. Code § 1950.5(b)(2), (e).

⁴ See Cal. Civ. Code § 1950.5(c).

⁵ See *id.*

⁶ See S.F., Cal., Admin. Code § 49.2(a)–(g).

⁷ See Cal. Civ. Code § 1950.5(f)(1). This requirement does not apply if the landlord is terminating the tenancy following a three-day notice to pay rent or quit; a three-day notice to

requests an inspection, the landlord or the landlord's agent must make an initial inspection of the rental property no earlier than two weeks before the termination or the end of lease date.⁸ The purpose of this initial inspection is to allow the tenant an opportunity to fix any identified repairs to avoid deductions from the security deposit.⁹ The landlord and tenant must attempt to schedule the inspection at a mutually acceptable date and time.¹⁰ The landlord must provide at least forty-eight hours' prior written notice of the date and time of the inspection.¹¹ A landlord can proceed with the inspection whether the tenant is present or not, unless the tenant withdraws the inspection request.¹²

Q: Does the landlord have to give the tenant anything after this initial inspection?

A: Yes. After the inspection, the landlord must give the tenant an itemized statement specifying repairs or cleanings proposed to be the basis of any deductions from the security deposit.¹³ This statement, which must also include certain language from California Civil Code section 1950.5, must either be given to the tenant if the tenant is present for the inspection or left inside the rental unit.¹⁴ The tenant then will have an opportunity during the period between the initial inspection and the final date of the tenancy to remedy these identified repairs to avoid deductions from the security deposit.¹⁵

Q: When must my landlord return my security deposit?

A: No later than twenty-one calendar days (i.e., three weeks) after the tenant has moved out of the rental unit.¹⁶ On or before this date, the landlord must provide the tenant, by personal delivery, by first-class mail, or by email (if the landlord and tenant agree to email) (1) a copy of an itemized statement indicating the basis for, and the amount of, any security deposit received and the disposition of the

perform a lease condition or covenant or quit; or a three-day notice to stop committing waste/nuisance or quit.

⁸ See § 1950.5(f)(1).

⁹ See *id.*

¹⁰ See *id.*

¹¹ See *id.*

¹² See Cal. Civ. Code § 1950.5(f)(1).

¹³ See § 1950.5(f)(2).

¹⁴ See *id.*

¹⁵ See § 1950.5(f)(3).

¹⁶ See § 1950.5(g)(1).

security deposit, and (2) any remaining portion of the security deposit.¹⁷ The itemized statement **must** also include copies of documents showing charges incurred and deducted by the landlord to repair or clean the premises.¹⁸ If the landlord or landlord's employee did the work, the itemized statement **must** describe the work performed, including time spent and the reasonable hourly rate charged.¹⁹ If the landlord or landlord's employee did not do the work, the landlord **must** provide the tenant a copy of the bill, invoice, or receipt supplied by the person or entity performing the work.²⁰ If a deduction is made for materials or supplies, the landlord must provide a copy of the bill, invoice, or receipt.²¹ The parties can agree to have the landlord deposit any remaining portion of the security deposit electronically to a bank account or other financial institution designated by the tenant.²² Otherwise, the tenant should provide the landlord with a mailing address so that a check can be mailed. If the tenant has not provided a new mailing address, the landlord must use the address of the vacated rental unit.²³

Q: Does the law penalize a landlord who fails to return the itemized statement along with the balance of the tenant's security deposit (if applicable) within twenty-one calendar days?

A: Yes. The bad faith retention by a landlord of the security interest or any portion thereof can subject the landlord to statutory damages of up to twice the amount of the security deposit, in addition to actual damages (including the portion of any security deposit retained in bad faith).²⁴

Q: How can a tenant prove the existence of a security deposit if the dispute ends up in court?

¹⁷ See *id.*

¹⁸ See § 1950.5(g)(2).

¹⁹ See § 1950.5(g)(2)(A).

²⁰ See § 1950.5(g)(2)(B).

²¹ See § 1950.5(g)(2)(C).

²² See § 1950.5(g)(1).

²³ See § 1950.5(g)(6).

²⁴ See § 1950.5(l).

A: A canceled check, a receipt, a lease indicating the requirement of a security deposit, a statement made under penalty of perjury, or “[a]ny [other] credible evidence.”²⁵

Q: What happens to my security deposit if my landlord sells the building, dies, or otherwise loses a legal interest in the rental unit during my tenancy?

*A: The landlord can **either** (1) transfer to the landlord’s successor in interest (e.g., the new owner) the portion of the tenant’s security deposit remaining after any lawful deductions but only after notifying the tenant of the transfer, of any claims made against the security deposit, of the amount of the security deposited, and of the names of the successors in interest, their addresses, and their telephone numbers; **or** (2) return the portion of the security deposit remaining after any lawful deductions, together with an accounting.²⁶*

Q: In a tenancy with multiple roommates who each contribute to the security deposit, what should we do when one of the roommates moves out?

*A: **Either** the remaining roommates need to reimburse the departing roommate his or her share of the security deposit, or the replacement roommate should write a check directly to the departing roommate for the departing roommate’s share of the security deposit, less any damages to the departing roommate’s room beyond ordinary wear and tear. The latter is a more common approach.*

²⁵ See § 1950.5(o).

²⁶ See § 1950.5(h)(1)–(2).

II. Recovering Your Security Deposit

Ideally, a tenant's strategy to recover his or her entire security deposit begins at the time the tenant notifies the landlord of the termination of the tenancy. A tenant's strategy will more likely begin *after* the tenant has moved out of the rental unit and *after* the landlord has failed to return all of the tenant's security deposit within twenty-one days. Fortunately, the template letters available in this Security Deposit Toolkit and on our website can be edited to account for either scenario.

Summarized below are steps you can take to put yourself in the best position possible to recover your security deposit, keeping in mind that many tenants begin this process at Step 5.

1. **Step 1:** Prepare a move out letter notifying your landlord of your intention to terminate your tenancy and your request for an initial inspection of the rental unit, and provide a mailing address for your security deposit.
2. **Step 2:** Appear for the initial inspection.
3. **Step 3:** Clean the rental unit and address any identified repairs, ensuring you return it to the landlord in the same condition you received it LESS ordinary wear and tear.
4. **Step 4:** Return the keys, garage door opener, and any other applicable items on or before the date your tenancy terminates.
5. **Step 5:** If your landlord has not returned your security deposit within twenty-one days, send a second letter citing the law, informing the landlord of the statutory penalty of twice the amount of the security deposit withheld in bad faith, and providing a date certain by which the landlord must return the remaining portion of security deposit to avoid further action.
6. **Step 6:** If your landlord does not return the balance of your security deposit by the date stated in your letter, decide whether the amount withheld justifies the time, resources, and mental and emotional energy needed to pursue this matter in Small Claims Court.

7. **Step 7:** If you believe it does, prepare and file a Plaintiff's Claim and ORDER to Go To Small Claims Court, serve a copy on the landlord, file the proof of service, and prepare for and attend your Small Claims Court trial.
8. **Step 8:** Inform the landlord you reserve the right to pursue any and all legal means at your disposal to pay the court-ordered judgment, to report him or her to the Better Business Bureau, and/or to share your negative experience with other renters on social media.

A. Step 1: Preparing Your Move Out Letter and Requesting an Initial Inspection.

Once you have decided to terminate your tenancy, you will need to provide your landlord written notice. To do so, you can either customize one of the two Word documents appearing in this Security Deposit Toolkit as **Exhibit A1** (if you are moving out due to one or more issues with your landlord, rental unit, or tenancy) or **Exhibit A2** (if you are **not** moving out due to any issues with your landlord, rental unit, or tenancy), as appropriate; or use the autogenerated letter option online at <http://MySecurityDeposit.com>, selecting "Notice of Termination of Tenancy Due to One or More Issues with Landlord, Rental Unit, or Tenancy" or "Notice of Termination of Tenancy Not Due to One or More Issues with Landlord, Rental Unit, or Tenancy," as appropriate. This letter informs your landlord that you will be ending your tenancy, (if applicable) cites the landlord's actions or omissions that have caused you to end your tenancy, requests an initial inspection of the rental unit within two weeks of the date of termination, proposes certain dates and times for the inspection, and provides a mailing address for your security deposit.

If you are on a month-to-month tenancy and the reason you are moving out is entirely unrelated to any of your landlord's actions or omissions, you should give at least one month's notice—preferably longer as a courtesy to allow your landlord to find a new tenant. Similarly, if you are nearing the end of your lease term and the reason you are moving out is entirely unrelated to any of your landlord's actions or omissions, you must provide the amount of notice set forth in your lease.

If, however, you are moving out due to your landlord's actions or omissions (such as the landlord's verbal or physical harassment, the landlord's failure to make repairs following requests by you to do so, or the landlord's failure to

address any other issue affecting the health and/or safety of you and anyone else you live with at the rental unit), you do not need to give the notice required under the lease. While the law does not force a tenant to continue living at a rental unit that is endangering the tenant's health and/or safety, be prepared for the landlord to disagree. Even in this scenario, it is best to provide the landlord with at least one month's notice if the tenancy is month-to-month. If, however, the tenancy is subject to a fixed term and you are vacating before that lease term is up, be prepared for your landlord to argue he or she is due all rent through the end of the lease term. If you are in this situation, consult with a tenant rights attorney to discuss your rights and a recommended strategy. (See Chapter V, entitled "Getting Additional Help.")

The address for any notices relating to your tenancy may be specified in your written lease. If it is not, or if you have an oral lease with your landlord, use the address to which you have been mailing or dropping off your rent.

Once the letter is finalized, print it, sign it, scan it, and mail it via USPS Certified Mail (or another courier with a tracking option) to the address specified in your lease or to the address to which you have been paying rent.

If you have the landlord's email address, email a digital copy of the scanned letter to your landlord. In the subject line, enter "Termination of Tenancy - [enter full address of rental property]" and in the body, enter "Dear Mr./Ms. Landlord, Find attached correspondence regarding the termination of my tenancy at the above-referenced address. Regards, Your Name." You can customize the language and tone of your message based on the nature of your relationship with your landlord. What is most important is that the letter is attached. If your email software has this feature, request a send receipt and a read receipt, which would prove that your message was sent and read, respectively. Your landlord may elect not to indicate whether the message was read, which is why you are also mailing a copy of the letter.

If your landlord does not confirm a date and time for the initial inspection, follow up with a call, email, and/or text on the date two weeks prior to your move out. If your landlord still refuses to conduct an initial inspection, he or she is already in violation of the law.²⁷

²⁷ See Cal. Civ. Code § 1950.5(f)(1).

B. Step 2: Appearing for the Initial Inspection.

After your landlord has confirmed the date and time of the initial inspection, you should do a few things to prepare. First, since you will probably not be fully packed up at this time, be sure you can at least provide as much visual access to walls and floors as possible. For this reason, it is in your interest to have as much of your personal property packed up and moved out as possible at the time of the inspection. You should have access to a camera and, ideally, ask someone who is not also a roommate to be there as your witness. You cannot audio-record or video-record the inspection unless you have the landlord's or the landlord's agent's permission.²⁸

When the landlord or the landlord's agent arrives, carefully walk through all areas of the rental unit. When the landlord or the landlord's agent identifies an area that needs to be fixed, take a photo. Do this until you have inspected the entire rental unit. If you disagree that you are responsible for any of the repairs, you can remind the landlord or the landlord's agent that you are responsible only for returning the rental unit to the landlord in the condition in which you received it at the start of the tenancy less any ordinary wear and tear.

At the conclusion of the inspection, the landlord or the landlord's agent must provide you with an itemized statement specifying repairs or cleanings proposed to be the basis of any deductions from your security deposit. This statement must include certain language from California Civil Code section 1950.5. If the landlord or the landlord's agent fails to provide you with this document or if the document does not include certain language from California Civil Code section 1950.5, he or she is in violation of the law.²⁹

Finally, be sure to schedule a time and place for you to return the keys, garage door opener, and any other applicable items to your landlord on or before the date your tenancy terminates.

²⁸ Recording a confidential communication without the other person's consent is a misdemeanor in California. See Cal. Penal Code § 632(a).

²⁹ See § 1950.5(f)(2).

C. Step 3: Cleaning the Rental Unit and Addressing Any Identified Repairs.

The itemized statement you received at the conclusion of the initial inspection should be your checklist for repairs to the rental unit. As noted in Chapter I, the discoloring of paint; wearing down of rugs; minor scratches and nicks on walls and countertops; etc. likely constitute “ordinary wear and tear,” for which the landlord is financially responsible. Steam-cleaning carpeting is probably the financial responsibility of the tenant if the carpeting had been steam-cleaned prior to the tenant moving in. A large gaping hole in the wall caused by a rowdy friend at a party or a broken window caused by a toddler throwing a baseball through it likely do not constitute “ordinary wear and tear.”

Notwithstanding any disagreements you raised during the initial inspection about who was responsible for what, if your landlord has nonetheless included on the itemized statement any repairs that you believe fall within the bounds of “ordinary wear and tear” and that are therefore the landlord’s financial responsibility, inform the landlord, in writing (i.e., using the same method for your notice of termination of tenancy), why you believe this is the case and indicate that you will not be addressing the identified repairs. While you should be prepared for the landlord to deduct costs for these repairs from your security deposit anyway, know that you will have an opportunity to challenge any such repairs in the future, and this writing will serve as evidence that your landlord was on notice of your disagreement with the repairs your landlord identified.

You have until the date you move out to address all repairs. It is entirely up to you whether you deem it worth your time, energy, and resources to address the identified repairs yourself, as opposed to enlisting the assistance of a friend, family member, or hired professional. The principal benefit of hiring a professional versus letting the landlord hire a professional is that it allows you to choose the vendor and you will probably be more inclined than the landlord to find a cost-effective vendor.

D. Step 4: Returning the Keys, Garage Door Opener, and Any Other Applicable Items on or Before the Date Your Tenancy Terminates.

Once you have addressed the identified repairs in the previous step, take photos to memorialize your work. After you have moved all of your personal property out of the rental unit and left it in the same condition it was in at the

start of your tenancy less ordinary wear and tear, you are ready to return your keys, garage door opener (if applicable), and any other applicable items to your landlord. Do so at the time and place agreed upon after the initial inspection. If you did not agree upon a time and place for the return of these materials at that time, contact your landlord (preferably via email or text so that you have a written record, but if time is of the essence, you can call) to coordinate the drop-off.

E. Step 5: If Your Landlord Has Not Returned Your Security Deposit Within Twenty-One Days, Sending a Second Letter.

For many renters, this is the first step in the process of pursuing their security deposit. That is totally fine. If this is your situation, you may not have the benefit of having documented all your interactions with your landlord, having forced your landlord to provide you with an itemized statement of repairs, and having made good faith efforts to address any such repairs. Nonetheless, your landlord has no right to withhold any portion of your security deposit if you returned the rental unit in the same condition in which you received it, less ordinary wear and tear, assuming you had no other financial obligations (e.g., unpaid rent) to the landlord.

Because the law requires a landlord to “furnish” a tenant with the security deposit or an itemized statement within twenty-one calendar days (i.e., three weeks), a landlord is technically in violation of the law on the twenty-second day. Nonetheless, because your landlord may not be aware of this nuance in the law, you should wait until at least two to three business days after the twenty-first day to allow for anything mailed on day twenty-one to be received.

Assuming you received nothing two to three business days after the twenty-first day or you received an itemized statement withholding costs for repairs beyond ordinary wear and tear, it is time to inform the landlord he or she is in violation of the law. To do so, either customize the Word document appearing in this Security Deposit Toolkit as **Exhibit B**, entitled “Sample Security Deposit Demand Letter to Landlord,” or use the autogenerated letter option online at <http://MySecurityDeposit.com>, selecting “Demand Letter Requesting Return of Security Deposit.”

Again, the address for any notices relating to your tenancy may be specified in your written lease. If it is not, or if you have an oral lease with your landlord, use the address to which you had mailed or dropped off your rent.

Once the letter is finalized, print it, sign it, scan it, and mail it via USPS Certified Mail (or another courier with a tracking option) to the address specified in your lease or to the address to which you have been paying rent.

If you have the landlord's email address, email a digital copy of the scanned letter to your landlord. In the subject line, enter "Return of Security Deposit - [enter full address of rental property]" and in the body, enter "Dear Mr./Ms. Landlord, Find attached correspondence regarding your failure to return my security deposit. Regards, Your Name." Feel free to customize the language and tone of the message. What is most important is that the letter is attached. If your email software has this feature, request a send receipt and a read receipt, which would prove that your message was sent and read, respectively. Your landlord may elect not to indicate whether the message was read, which is why you are also mailing a copy of the letter.

F. Step 6: If Your Landlord Does Not Return The Balance Of Your Security Deposit By The Date Stated In Your Letter, Decide Whether to Pursue This Matter In Small Claims Court.

You have now put your landlord on notice that he or she is in violation of the law and that you now have no choice but to initiate formal legal proceedings. Assuming the amount at issue is \$10,000.00 or less, that means filing a claim in Small Claims Court. The question now is whether you believe the *potential*³⁰ recovery of your security deposit is worth the time, cost, and mental and emotional energy.

Time. At this point, you will have already spent a significant amount of time and energy on leaving your rental unit in the same condition in which you found it less ordinary wear and tear. For the next steps, you can expect to spend approximately one hour preparing your Plaintiff's Claim and ORDER to Go To Small Claims Court, one to three trips to the courthouse (one trip if you use a small claims court filing and service vendor; two to three times if you wish to file Plaintiff's Claim and ORDER to Go To Small Claims Court and Proof of Service (if

³⁰ As noted in the Disclaimer, following this process does not guarantee you will recover your security deposit.

applicable) yourself plus a trip for your Small Claims trial), half an hour to prepare the certified mailing, at least one to two hours preparing for your Small Claims Trial, and up to a full day for your Small Claims Trial. This could mean anywhere from a day and a half to two and a half days of your time.

Cost. To file a Claim and Order to Go to Small Claims Court, you must pay a filing fee based on the amount of the claim: \$30.00 if the claim is for \$1,500.00 or less, \$50.00 if the claim is for more than \$1,500.00 but up to \$5,000.00, and \$75.00 if the claim is for more than \$5,000.00. If you serve your landlord by Certified Mail, the cost of postage is approximately \$15.00. Small claims filing and service vendors may charge anywhere from \$50.00 to \$200.00 or more for their services. You should also include the costs of transportation to and from the courthouse. In sum, the cost is likely to be between \$50.00 and \$300.00.

Mental and Emotional Energy. Appearing in court—even when you believe you are in the right—can be stressful. This consideration is impossible to quantify and unique to each person but is definitely worth considering. You should also keep in mind that a lawsuit—even a claim in Small Claims Court—is a public record. Moving forward, whenever you are asked whether you have ever been a party to a lawsuit, your answer will be “yes.”

Assuming you are ready to move forward, the next chapter will discuss how to prepare for and what to expect when you attend your Small Claims Court trial.

III. Preparing for and Attending Your Small Claims Court Trial

The process of preparing and filing a claim in Small Claims Court is relatively simple and straightforward. This is by design. Small Claims Court is a division of every California Superior Court where disputes between private litigants of up to \$10,000.00 are decided. Since lawyers are prohibited from representing litigants in Small Claims Court, the procedural and evidentiary rules which lawyers must normally follow in other Superior Court divisions are substantially more lenient. With a relatively modest investment of time, resources, and energy, self-represented litigants can have their day in court.

A. Preparing Plaintiff's Claim and ORDER to Go To Small Claims Court

A plaintiff must download, complete, sign, date, and file the Claim and Order to Go to Small Claims Court ([Form SC-100](#)). Included in this Security Deposit Toolkit as **Exhibit C** is a sample Claim and Order to Go to Small Claims Court you can use as a template. Here is a step-by-step guide to filling it out:

- **Page 1.** Under “*Fill in court name and address,*” enter the name of the county in which the Court is located and the Court’s address. The proper court is the one in which either your former rental unit is located or in which your landlord resides (if different). The court’s address appears on the on the court’s website.
- **Page 2, Item 1.** Under “The plaintiff (the person, business, or public entity that is suing) is,” enter your name, phone number (remember this is a public record, so you may not wish to enter your cell phone number), street address, and mailing address (if different). If there is more than one plaintiff, enter the same information under “If more than one plaintiff, list next plaintiff here.”
- **Page 2, Item 2.** Under “The defendant(the person, business, or public entity being sued) is,” enter your landlord’s name, phone number, street address, and mailing address (if different). If your landlord is a corporation or limited liability company, enter the person or agent authorized for service of process. You can find this information is available on the California Secretary of State website [here](#).
- **Page 2, Item 3.** Enter the total amount the landlord owes you.

- **Page 2, Item 3(a).** Enter one or two sentences summarizing why your landlord owes you money, e.g., “Defendant, my former landlord, withheld my security deposit in bad faith. I requested an initial inspection, which was not granted. I have provided my landlord with my mailing address and sent a demand for the amount due.” Next to “When did this happen? (*Date*),” enter the date twenty-one days from the date you returned possession of your rental unit.
- **Page 2, Item 3(b).** Leave blank.
- **Page 2, Item 3(c).** Explain how you calculate the money owed to you, e.g., “Total due: \$1,500.00 (security deposit) + \$3,000.00 (twice the amount withheld in bad faith; see Cal. Civ. Code § 1950.5(l)) + \$49.00 (fee paid to third party for information pertaining to Cal. security deposit law) = \$4,549.00.” Included in this Security Deposit Toolkit as **Exhibit D** is a Security Deposit Expense Calculator you can use to ensure your math is correct.
- **Page 3, Item 4.** Because you have already sent the Security Deposit Demand Letter, check the box next to “Yes.”
- **Page 3, Item 5.** Check the box next to “(a).”
- **Page 3, Item 6.** If you are suing in the county in which the rental property is located, enter the zip code of the rental property. If you are suing in the county in which your landlord lives, enter the zip code of your landlord’s mailing address.
- **Page 3, Item 7.** Check the box next to “No.”
- **Page 3, Item 8.** Check the box next to “No.”
- **Page 3, Item 9.** Check the box next to “No,” unless you have filed more than twelve other small claims complaints within the last twelve months in California.
- **Page 3, Item 10.** Check the box next to “Yes,” if the total you entered in Item 3(c) is more than \$2,500.00; otherwise, check the box next to “No.”
- **Page 3, Item 11.** Review all the information you entered to ensure it is correct, as you are signing under penalty of perjury. Then enter the date and your printed name. Print the document and sign it.

B. Filing Plaintiff's Claim and ORDER to Go To Small Claims Court

You have two options for this: (1) you can file the Plaintiff's Claim and ORDER to Go to Small Claims Court yourself, or (2) you can hire a vendor to file this on your behalf.

Filing Yourself. If you wish to file the Plaintiff's Claim and ORDER to Go To Small Claims Court yourself, make three copies of the Claim and Order to Go to Small Claims Court, so that you have a total of four: one for the Court, one for you, one to be served on your landlord, and one extra. Go to the "Small Claims" filing window of the courthouse identified on the first page of the Claim and Order to Go to Small Claims Court. Give the original and signed copies of your Claim and Order to Go to Small Claims Court to the clerk and pay the required fee (\$30.00 if the claim is for \$1,500.00 or less, \$50.00 if the claim is for more than \$1,500.00 but up to \$5,000.00, and \$75.00 if the claim is for more than \$5,000.00). Once filed, the clerk will issue a trial date and stamp the date on the Claim and Order to Go to Small Claims Court.

Hiring a Vendor. You actually do not need to file the Claim and Order to Go to Small Claims Court yourself. Someone can do this for you. Several companies offer this service, including but not limited to [EZ Small Claims](#), [Serves R Us](#), [Attorney's Certified Services](#), [S & R Services](#), and [Valpro Attorney Services](#).³¹ These companies offer a range of services from the filing of a Claim and Order to Go to Small Claims Court to serving of a Claim and Order to Go to Small Claims Court. Some even offer additional small claims help. All five companies offer service in all counties of California, but some do not offer court filing in all counties. When selecting a vendor, be sure the company offers filing and/or process server services in the county in which you are filing your Claim and Order to Go to Small Claims Court. Attorney's Certified Services also offers service outside of the state of California if needed. When researching other potential vendors, be sure to check third party review sites (e.g., the [Better Business](#)

³¹ While Security Deposit Toolkit, Inc. is not in any way affiliated with these vendors, we mention them specifically because all currently hold A+ ratings with the Better Business Bureau.

[Bureau](#) website). More information on serving your Claim and Order to Go to Small Claims Court is listed in the next section.

C. Arranging for Service of Plaintiff's Claim and ORDER to Go To Small Claims Court

California law requires that defendants in any legal action be served to ensure they are properly notified of the lawsuit filed against them. A process server (or "server") is the person who delivers these documents. He or she must be at least eighteen years of age and not a party to the case. In other words, you cannot serve the Claim and Order to Go to Small Claims Court yourself. The server can be either a friend, relative, or co-worker; or, as noted in Section III(B), *supra*, you can hire a professional process server. There are three different ways to serve a defendant with a Claim and Order to Go to Small Claims Court in a small claims case: (1) via Certified Mail by the Court Clerk, (2) via personal service, and (3) via substituted service.

Certified Mail by the Court Clerk. The easiest and least expensive way to serve your landlord with the Claim and Order to Go to Small Claims Court is via the court clerk, who is legally authorized to send it via certified mail and restricted delivery. You will have to pay a fee for every defendant. To learn more about fees, ask the clerk. The court clerk will get a return receipt that says that the defendant signed for the certified mail. Ten to fifteen days after the clerk mails the Claim and Order to Go to Small Claims Court, either check the court website or call the clerk's office to find out if it has been served. Provide the case number and hearing date when you ask for this information. If service by Certified Mail was unsuccessful, you must attempt either personal service or substituted service.

Personal Service. Ask your server to personally "serve" (give) a copy of the Claim and Order to Go to Small Claims Court to your landlord or to the agent legally authorized to accept court papers for your landlord. Tell the server to walk up to your landlord at a home or work address; say, "these are court papers"; and give the person copies of all the court papers. If your landlord will not take the papers, the server can leave them near your landlord. It does not matter if your landlord tears them up or throws them away. The server must then fill out the Proof of Service (Small Claims) ([Form SC-104](#)), sign Page 2, and return the form to you for you to file.

You must serve your landlord via personal service at least 15 days before the court date (or 20 days if the person, business, or public entity you are serving is outside the county). See Cal. Civ. Proc. Code § 116.340(b).

Substituted Service. If your landlord is not at home or work when your server goes there, your server can give the court papers to a competent adult (at least eighteen years of age) living at your landlord's home; an adult who seems to be in charge where your landlord usually works; or an adult who seems to be in charge where your landlord receives mail. The server must also tell the person he or she is leaving the court papers with to give them to your landlord and write down the name of the person he or she gave the court papers to. If the person will not give his or her name, your server must write down a physical description of the person who took the papers. You must then mail another copy of the court papers by USPS First Class mail to your landlord at the same address where your server left the papers. The server **MUST** fill out and sign the Proof of Service (Small Claims) ([Form SC-104](#)) and the Proof of Mailing (Substituted Service) ([Form SC-104A](#)). Once the server fills out both forms, he or she must return the completed forms for you to file with the clerk.

You must serve your landlord via substituted service at least 25 days before your court date (or 30 days if the person, business, or public entity you are serving is outside the county). See Cal. Civ. Proc. Code §§ 116.340(b); 415.20(a).

If you are unable to serve your landlord via Certified Mail by the Court Clerk; via personal service at least 15 days before the court date (or 20 days if the person, business, or public entity you are serving is outside the county); or via substituted service at least 25 days before your court date (or 30 days if the person, business, or public entity you are serving is outside the county), your trial cannot proceed. In this case, you will need to postpone your trial date. To do so, complete Form SC-150, entitled "Request to Postpone Trial." Included in this Security Deposit Toolkit as **Exhibit E** is a sample Request to Postpone Trial you can use as a template.

Further information on serving the defendant is available at <http://www.courts.ca.gov/9742.htm>.

D. Filing a Proof of Service

If you successfully served your landlord via Certified Mail by the Court Clerk, you do not need to file any proof of service. If your landlord was served personally, the server must fill out the Proof of Service (Small Claims) ([Form SC-104](#)), sign Page 2, and either file it or return it to you to file. If your landlord was served via substitute service, the server must fill out and sign the Proof of Service (Small Claims) ([Form SC-104](#)) and the Proof of Mailing (Substituted Service) ([Form SC-104A](#)), and return the forms to you to file.

Before you file the Form SC-104 (if your landlord was personally served) or Forms SC-104 and SC-104A (if your landlord was substitute served), make at least three copies. As with the Claim and Order to Go to Small Claims Court, you actually do not need to file these documents yourself. Someone can do this for you, as noted in Section III(B), *supra*. You or someone acting on your behalf should go to the “Small Claims” filing window of the courthouse identified on the first page of the Claim and Order to Go to Small Claims Court, present the document, and receive stamped copies. There should be no charge for this. While it is possible to file by mail, we do not recommend this given what is typically a small window between the date the Claim and Order to Go to Small Claims Court is filed and the deadline file the proof of service. You must file Form SC-104 (if your landlord was personally served) or Forms SC-104 and SC-104A (if your landlord was substitute served) with the court at least five days before your Small Claims trial date.

E. Preparing for Trial

As the plaintiff, you have the burden of proving your claim by the “more likely than not” standard (think 50.0001%).

Three items will be especially critical to proving your claim. The first is a factual summary of the events that led you to court, organized chronologically and not exceeding one page. (Included in this Security Deposit Toolkit as **Exhibit F** is a sample factual summary/timeline you can use as a template.) The second is the law pertaining to security deposits, California Civil Code section 1950.5 (available [here](#) or at the end of this Security Deposit Toolkit) and any other local ordinances relating to security deposits (e.g., San Francisco Administrative Code section 49.2(a)–(g), also available at the end of this Security Deposit Toolkit). Although the Small Claims Court judge will probably have heard many other

security deposit disputes and will probably already be very familiar with the law, it is still a good idea to have the law with you for reference. The third is a spreadsheet or other document calculating how you arrived at the number in your Claim and Order to Go to Small Claims Court, and all supporting evidence. (Again, included in this Security Deposit Toolkit as **Exhibit D** is a Security Deposit Expense Calculator.) Finally, you should also bring with you a copy your Claim and Order to Go to Small Claims Court and any proofs of service.

Included in this Security Deposit Toolkit as **Exhibit G** is a sample checklist of the above-referenced categories of documents to bring with you to your Small Claims Court trial. These include the following:

1. Factual summary/timeline;
2. California Civil Code section 1950.5 (available [here](#) or at the end of this Security Deposit Toolkit) and any local ordinance authorizing interest to be paid on your security deposit;
3. Your Security Deposit Expense Calculator, showing the total amount due;
4. All supporting evidence, including:
 - a. Your original lease;
 - b. Any written communications (e.g., emails, texts, letters, and faxes) between you and your landlord demonstrating that he/she/it retained all or part of your security deposit in bad faith;
 - c. If applicable, your move out letter, and proof of mailing and/or emailing;
 - d. If applicable, any photos of your former rental unit at the time of the initial inspection and/or move out.
 - e. If applicable, the itemized list your landlord provided after the initial inspection.
 - f. Your security deposit demand letter, and proof of mailing and/or emailing;
 - g. Receipts for any expenses for which you are seeking reimbursement (e.g., for process server charges, court filing fees, etc.); and
 - h. Any other relevant documents.
5. And all court documents, including:
 - a. Plaintiff's Claim and ORDER to Go To Small Claims Court;
 - b. If applicable, Form SC-104 (if your landlord was personally served) or Forms SC-104 and SC-104A (if your landlord was substitute served).

Prepare and assemble four identical sets the documents above: one for you, one for the landlord, one for the judge, and one extra copy. Put all of these documents into an organized folder. The easier you make it for yourself to present your story and for the judge to understand it, the better your odds of prevailing at trial.

Although the documentary evidence will be most important to proving your claim, testimonial evidence is also very powerful. While most third parties generally prefer not to get involved in legal disputes, you may wish to ask a roommate or other person present for the initial inspection to appear with you and testify about what he or she observed firsthand. Be sure to give any witnesses or other individuals planning on appearing with you a filed copy of the Claim and ORDER to Go To Small Claims Court, which includes the time, date, and location of your Small Claims Court trial. Remind these individuals to arrive early.

Since court caseloads vary from county to county and it is impossible to know how busy the court will be on any given day, plan on the trial taking the entire day. In other words, do not plan on returning to work in the afternoon if you have a 10:00 a.m. trial date.

Get a good night's rest before your trial. Wear a suit to court. This will show the judge (and the defendant) you are taking this matter seriously. Find the location of the courthouse. If you plan to drive, ensure you know where to park. If you plan to take public transportation, know where and when you will be dropped off. Plan on arriving at the courtroom at least thirty minutes before your trial. Since it could take up to half an hour to wait in line and get through security, plan on physically entering the courthouse at least one hour before your trial. You do not want to be rushed on your trial date.

Further information on preparing for trial is available at <http://www.courts.ca.gov/1013.htm>.

F. Attending Trial

After entering the courthouse (and, if applicable, coordinating with any other witnesses or individuals), head to your assigned courtroom. This will be listed on the Claim and Order to Go to Small Claims Court. You will likely find many other litigants waiting outside.

Most courts will have a calendar placed directly outside of the courtroom with a list of the cases the judge will hear that day. Note the line number associated with your lawsuit. Once the doors open, check in with the clerk. The clerk will ask which line you are on and whether you are the plaintiff or the defendant. After you check in, take a seat and wait for your matter to be called.

The clerk will likely go over some of the rules of the court and, assuming both sides are present, may ask you both to step outside and share your evidence with each other. After you have done so, enter the courtroom and wait until your case is called.

When it is, approach the table in front of the judge. The plaintiff usually sits or stands on the left-hand side but go wherever you are instructed. The judge may ask the parties if they want to attempt mediation or order the parties to attempt mediation. Mediation, a form of alternative dispute resolution, is always a good idea. Because it is nonbinding, nothing bad can happen: either your case settles or it does not. Courts often have onsite neutral mediators (usually experienced attorneys) to assist litigants free of charge. If you come to an agreement at mediation, you do not need to present your case to the judge. The mediator can assist in memorializing the terms of any agreement and then present it to the judge. The judge will then (1) enter it into the record and (2) set a “compliance hearing” at a later date so that if the defendant fails to comply with the agreement, you can return to court and request an immediate judgment. If you do not come to an agreement at mediation, you can simply return to the court to present your case.

As the plaintiff, you will go first. As noted, you have the burden of proving your case. Relying on the documents you prepared, succinctly explain your case to the judge. Always be respectful; never interrupt the judge or the landlord. Your landlord will have a chance to present his or her side and challenge any evidence you may present with his or her own. In most cases, the judge will take the matter “under submission,” i.e., return to his or her chambers to review all the evidence and arguments presented and issue a written decision later. Usually, a decision will be mailed to the parties within two to four weeks of the trial date.

Further information on your trial is available at <http://www.courts.ca.gov/1119.htm>.

IV. Enforcing Your Judgment

Assuming the Court issues a judgment in your favor, the final step in this process is actually collecting your security deposit from the landlord. The Court may order the judgment to be satisfied (paid) by a particular date. If this is the case, take no action until after this date. Once the landlord pays the judgment, *immediately* complete and arrange for the filing of an Acknowledgment of Satisfaction of Judgment ([Form SC-290](#)). If an Abstract of Judgment has been filed, use [Form SC-130](#). ***If you fail to timely file an Acknowledgment of Satisfaction of Judgment, you may be fined!***

Keep in mind a judgment is just a piece of paper that your landlord may simply choose to ignore. If he or she does, you will need to enforce your judgment.

While various legal remedies exist to enforce judgments (e.g., a judgment lien on real property, a judgment lien on personal property, enforcement of judgment by writ of execution, and wage garnishment), these remedies are complicated, require the expertise of an attorney, and are likely cost-prohibitive based on the amount you likely recovered.

Because a letter is a low-cost alternative to hiring an attorney, sending a letter to your landlord informing him or her of your rights and intentions may compel him or her to comply with the judgment. Included in this Security Deposit Toolkit as **Exhibit H** is a document entitled “Sample Post-Judgment Letter to Landlord.” This letter informs your landlord that if he or she does not satisfy the judgment by a date within the next two weeks, you reserve the right to use the legal means available to you to enforce the judgment, including sending the judgment to collections. You also reserve the right to report your experience to the Better Business Bureau and/or post a review of your experience on one or more social media platforms. (Be sure to confirm the presence of your landlord on at least one social media platform before you include any such statement. A property management company or professional landlord is more likely to have a social media presence than an individual.)

Once the letter has been finalized, print it, sign it, scan it, and mail it via USPS Certified Mail (or another courier with a tracking option) to the landlord address identified in the Claim and Order to Go to Small Claims Court.

If you have the landlord's email address, email a digital copy of the scanned letter to your landlord. In the subject line, enter "Your Full Name v. Landlord's Full Name, County Name County Superior Court Case No. Case Number" and in the body, enter "Dear Mr./Ms. Landlord, Find attached correspondence regarding payment of the judgment in the above-referenced matter. Regards, Your Name." Feel free to customize the language and tone of the message. What is most important is that the letter is attached. If your email software has this feature, request a send receipt and a read receipt, which would prove that your message was sent and read, respectively. Your landlord may elect not to indicate whether the message was read, which is why you are also mailing a copy of the letter.

Once the deadline in your letter has passed, do what you promised. To file a report with the Better Business Bureau, visit <https://www.bbb.org/consumer-complaints/file-a-complaint/get-started>. To post a review on a social media platform such as Yelp!, Google, or Facebook, visit these sites and search for your landlord.

If you so desire, you can send the matter to a collections company or debt collector. Be sure to investigate any potential collections companies or debt collectors to ensure they are reputable and have a successful track record.

V. Getting Additional Help

We hope this Security Deposit Toolkit has proven useful and has helped you recover your security deposit. Should you require further assistance, contact Tenant Law Group at (888) 510-7511 or online at <http://www.tenantlawgroupsf.com>. Tenant Law Group, which serves tenants throughout the State of California, frequently assists renters with security deposit disputes and offers consultations via phone or teleconference.³²

³² This Paragraph may be considered attorney advertising. Pursuant to California Rule of Professional Conduct 7.2, Tenant Law Group, PC, located at 649 Mission Street, 5th Floor, San Francisco, CA 94105-4128, is responsible for this information.

California Civil Code § 1950.5

The full text of this statute is available online at

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=1950.5.

1950.5 (a) This section applies to security for a rental agreement for residential property that is used as the dwelling of the tenant.

(b) As used in this section, “security” means any payment, fee, deposit, or charge, including, but not limited to, any payment, fee, deposit, or charge, except as provided in Section 1950.6, that is imposed at the beginning of the tenancy to be used to reimburse the landlord for costs associated with processing a new tenant or that is imposed as an advance payment of rent, used or to be used for any purpose, including, but not limited to, any of the following:

(1) The compensation of a landlord for a tenant’s default in the payment of rent.

(2) The repair of damages to the premises, exclusive of ordinary wear and tear, caused by the tenant or by a guest or licensee of the tenant.

(3) The cleaning of the premises upon termination of the tenancy necessary to return the unit to the same level of cleanliness it was in at the inception of the tenancy. The amendments to this paragraph enacted by the act adding this sentence shall apply only to tenancies for which the tenant’s right to occupy begins after January 1, 2003.

(4) To remedy future defaults by the tenant in any obligation under the rental agreement to restore, replace, or return personal property or appurtenances, exclusive of ordinary wear and tear, if the security deposit is authorized to be applied thereto by the rental agreement.

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

This subdivision does not prohibit an advance payment of not less than six months’ rent if the term of the lease is six months or longer.

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

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

(e) The landlord may claim of the security only those amounts as are reasonably necessary for the purposes specified in subdivision (b). The landlord may not assert a claim against the tenant or the security for damages to the premises or any defective conditions that preexisted the

tenancy, for ordinary wear and tear or the effects thereof, whether the wear and tear preexisted the tenancy or occurred during the tenancy, or for the cumulative effects of ordinary wear and tear occurring during any one or more tenancies.

(f)(1) Within a reasonable time after notification of either party's intention to terminate the tenancy, or before the end of the lease term, the landlord shall notify the tenant in writing of his or her option to request an initial inspection and of his or her right to be present at the inspection. The requirements of this subdivision do not apply when the tenancy is terminated pursuant to subdivision (2), (3), or (4) of Section 1161 of the Code of Civil Procedure. At a reasonable time, but no earlier than two weeks before the termination or the end of lease date, the landlord, or an agent of the landlord, shall, upon the request of the tenant, make an initial inspection of the premises prior to any final inspection the landlord makes after the tenant has vacated the premises. The purpose of the initial inspection shall be to allow the tenant an opportunity to remedy identified deficiencies, in a manner consistent with the rights and obligations of the parties under the rental agreement, in order to avoid deductions from the security. If a tenant chooses not to request an initial inspection, the duties of the landlord under this subdivision are discharged. If an inspection is requested, the parties shall attempt to schedule the inspection at a mutually acceptable date and time. The landlord shall give at least 48 hours' prior written notice of the date and time of the inspection if either a mutual time is agreed upon, or if a mutually agreed time cannot be scheduled but the tenant still wishes an inspection. The tenant and landlord may agree to forgo the 48-hour prior written notice by both signing a written waiver. The landlord shall proceed with the inspection whether the tenant is present or not, unless the tenant previously withdrew his or her request for the inspection. Written notice by the landlord shall contain, in substantially the same form, the following:

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

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

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

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

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

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

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

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

(B) If the landlord or landlord's employee did not do the work, the landlord shall provide the tenant a copy of the bill, invoice, or receipt supplied by the person or entity performing the work. The itemized statement shall provide the tenant with the name, address, and telephone number of the person or entity, if the bill, invoice, or receipt does not include that information.

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

(3) If a repair to be done by the landlord or the landlord's employee cannot reasonably be completed within 21 calendar days after the tenant has vacated the premises, or if the documents from a person or entity providing services, materials, or supplies are not in the landlord's possession within 21 calendar days after the tenant has vacated the premises, the landlord may deduct the amount of a good faith estimate of the charges that will be incurred and provide that estimate with the itemized statement. If the reason for the estimate is because the documents from a person or entity providing services, materials, or supplies are

not in the landlord's possession, the itemized statement shall include the name, address, and telephone number of the person or entity. Within 14 calendar days of completing the repair or receiving the documentation, the landlord shall complete the requirements in paragraphs (1) and (2) in the manner specified.

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

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

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

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

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

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

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

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

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

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

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

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

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

(j)(1) In the event of noncompliance with subdivision (h), the landlord's successors in interest shall be jointly and severally liable with the landlord for repayment of the security, or that portion thereof to which the tenant is entitled, when and as provided in subdivisions (e) and (g). A successor in interest of a landlord may not require the tenant to post any security to replace that amount not transferred to the tenant or successors in interest as provided in subdivision (h), unless and until the successor in interest first makes restitution of the initial security as provided in paragraph (2) of subdivision (h) or provides the tenant with an accounting as provided in subdivision (g).

(2) This subdivision does not preclude a successor in interest from recovering from the tenant compensatory damages that are in excess of the security received from the landlord previously paid by the tenant to the landlord.

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

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

(l) 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 this section, or the bad faith demand of replacement security in violation of subdivision (j), may subject the landlord or the landlord's successors in interest to statutory damages of up to twice the amount of the security, in addition to actual damages. The court may award damages for bad faith whenever the facts warrant that award, regardless of whether the injured party has specifically requested relief. In an action under this section, the landlord or the landlord's successors in interest shall have the burden of proof as to the reasonableness of the amounts claimed or the authority pursuant to this section to demand additional security deposits.

(m) No lease or rental agreement may contain a provision characterizing any security as "nonrefundable."

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

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

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

(q) The amendments to this section made during the 2003 portion of the 2003–04 Regular Session of the Legislature that are set forth in paragraph (1) of subdivision (f) are declaratory of existing law.

(Amended by Stats. 2013, Ch. 76, Sec. 12. (AB 383) Effective January 1, 2014.)

San Francisco Administrative Code § 49.2

(Interest on Security Deposits)

The full text of this statute is available online at <https://sfrb.org/chapter-49-san-francisco-administrative-code-security-deposits-residential-rental-property>.

(a) A landlord who is subject to the provisions of Section 1950.5 of the California Civil Code shall pay simple interest on all security deposits held for at least one year for his/her tenants; provided, however, that this requirement shall not apply where the rent is assisted or subsidized by any government unit, agency or authority.

(b) Interest shall begin accruing on September 1, 1983, or on whatever date the security deposit is received by the landlord after September 1, 1983, and shall accrue until the tenancy terminates. Beginning on September 1, 1984, or on any date thereafter upon which the security deposit has been held by the landlord for one year, and annually thereafter on the same month and day, a tenant shall be given the unpaid accrued interest in the form of either a direct payment or a credit against the tenant's rent. The landlord shall choose between these two methods of payment.

(c) Upon termination of tenancy, a tenant whose security deposit has been held for one year or more shall be entitled to a direct pro-rata payment of any unpaid accrued interest no later than two weeks after the tenant has vacated the premises; provided, however, that a landlord may retain any portion of the unpaid accrued interest, subject to the limitations and requirements set forth in Section 1950.5 (e) of the California Civil Code, where the security deposit alone is insufficient to remedy tenant default in the payment of rent, to repair damages to the premises caused by the tenant, exclusive of ordinary wear and tear, or to clean such premises, if necessary, upon termination of the tenancy.

(d) Nothing in this Chapter shall preclude a landlord from exercising his or her discretion in investing security deposits.

(e) Notwithstanding the provisions of (a) through (c) above, where a landlord seeks reimbursement for the annual Residential Rent Stabilization and Arbitration fee as provided in Sec. 37A.6 of this Code, the landlord may deduct said fee from the next interest payment owed to the tenant pursuant to this Chapter.

(f) The interest rate for interest payments required by this Chapter 49 shall be determined by the Residential Rent Stabilization and Arbitration Board (Rent Board), to be effective on March 1 of each year.

(1) For March 1, 2003 and prior years, the Rent Board shall calculate the rate as of the immediately preceding December 31st according to the historical Federal Reserve Discount Window Borrowing Rate, using an average of the twelve most recent monthly rates (rounded to

the nearest tenth) as posted by the Federal Reserve on the Federal Reserve Statistical Release internet site.

(2) For March 1, 2004 through March 1, 2014, the Rent Board shall calculate the rate as of the immediately preceding December 31st according to the Federal Reserve 6-Month Certificate of Deposit rate, using an average of the twelve most recent monthly rates (rounded to the nearest tenth) as posted by the Federal Reserve on the Federal Reserve Statistical Release internet site.

(3) For March 1, 2015 and each year thereafter, the Rent Board shall calculate the rate according to the annual average of the 90-Day AA Financial Commercial Paper Interest Rate (rounded to the nearest tenth) for the immediately preceding calendar year as published by the Federal Reserve.

(g) The amount of interest due and payable by the landlord shall be the amount of the security deposit held by the landlord on the date the interest payment is due multiplied by either:

(1) The interest rate in effect on the date the annual payment is due, if the payment is due under Section 49.2(b); or

(2) The interest rate in effect on the date the tenant vacates the unit, if the tenant is entitled to a pro-rata interest payment under Section 49.2(c). (Added by Ord. No. 299-83, App. 6/3/83; amended by Ord. 278-89, App. 8/2/89; Ord. 291-90, App. 8/1/90; Ord. 107-02, File No. 020296, App. 7/5/2002; Ord. 90-03, File No. 030221, App. 6/16/2003; Ord. 82-04, File No. 040101, App. 5/20/2004; Ord. 233-14 , File No. 140970, App. 11/26/2014, Eff. 12/26/2014)