

## [Massachusetts Security Deposits: To Take Or Not To Take, That Is The Question.](#)

My last post on this blog and on [Boston.com](#) on [Massachusetts landlord-tenant law](#) spawned many questions on the Massachusetts security deposit law. So, I decided to go into more detail about the topic.

### **Massachusetts Security Deposits—An Overview**

Last month's rent and security deposits are one of the most heavily regulated aspects of Massachusetts landlord-tenant law and are fraught with pitfalls and penalties for the unwary, careless landlord. Any misstep, however innocent, under the complex [Massachusetts last month's rent and security deposit law](#) can subject a landlord to far greater liability than the deposit, including penalties up to triple the amount of the deposit and payment of the tenant's attorneys' fees. This is why I advise landlords not to require security deposits. If a deposit is necessary, take a last month's deposit, the requirements of which are less strict than security deposits. If landlords insist on taking a security deposit, they must follow the law to the letter.

The following steps must be followed when a landlord holds a security deposit:

1. When the deposit is tendered, the landlord must give the tenant a written receipt which provides:
  - the amount of the deposit
  - the name of the landlord/agent
  - the date of receipt
  - the property address.
2. Within 30 days of the money being deposited, the landlord must provide the tenant with a receipt identifying the bank where the deposit is held, the amount and account number.
3. Within 10 days after the tenancy begins, the landlord must provide the tenant with a written "statement of condition" of the premises detailing its condition and any damage with a [required disclosure statement](#);
4. The tenant has an opportunity to note any other damage to the premises, and the landlord must agree or disagree with the final statement of condition and provide it to the tenant.
5. The security deposit must be held in a separate interest bearing account in a Massachusetts financial institution protected from the landlord's creditors.
6. The landlord must pay the tenant interest on the security deposit annually if held for more than one year.
7. The security deposit may only be used to reimburse the landlord for unpaid rent, reasonable damage to the unit or unpaid tax increases if part of the lease. Security deposits cannot be used for general eviction costs or attorneys' fees. Within 30 days of the tenant's leaving, the landlord must return the deposit plus any unpaid interest or



provide a sworn, itemized list of deductions for damage with estimates for the work. Only then can the landlord retain the security deposit.

### **What Do I Do If The Landlord Mishandles My Security Deposit?**

First, talk with the landlord about the situation and respectfully remind him or her of the law's requirements. Many landlords will balk at the potential penalties for a security deposit violation, and most issues can be resolved amicably, usually with the return of the deposit with interest. If that doesn't work, send the landlord a certified demand letter under the [Massachusetts Consumer Protection Act, Chapter 93A](#). If that fails, take the landlord to [Small Claims Court](#) (the limit for these type of claims involving triple damages is \$6,000) or contact an attorney.