

HOUSE No. 724

The Commonwealth of Massachusetts

PRESENTED BY:

Nicholas A. Boldyga, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to advance rent and security deposits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Peter Vickery</i>	<i>256 North Pleasant Street, Ste. 3 Amherst, MA 01002</i>
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>

HOUSE No. 724

By Mr. Boldyga of Southwick (by request), a petition (accompanied by bill, House, No. 724) of Peter Vickery and Donald F. Humason, Jr. relative to advance rent and security deposits. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to advance rent and security deposits.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 15B of chapter 186 of the General Laws as appearing in the 2014
2 official edition is hereby amended by striking out paragraph (a) of subsection 2 by inserting in
3 place thereof the following paragraph:-

4 (2)(a) Any lessor or his agent who receives, at or prior to the commencement of a
5 tenancy, rent in advance for the last month of the tenancy from a tenant or prospective tenant
6 shall give to such tenant or prospective tenant at the time of such advance payment a receipt
7 indicating the amount of such rent, the date on which it was received, its intended application as
8 rent for the last month of the tenancy, the name of the person receiving it and, in the case of an
9 agent, the name of the lessor for whom the rent is received, and a description of the rented or
10 leased premises, and a statement indicating that the tenant is entitled to the amount of interest as
11 has been received from the bank where the deposit has been held payable in accordance with the
12 provisions of this clause, and a statement indicating that the tenant should provide the lessor with

13 a forwarding address at the termination of the tenancy indicating where such interest may be
14 given or sent.

15 Any lessor or his agent who receives said rent in advance for the last month of tenancy
16 shall, beginning with the first day of tenancy, pay the amount of interest as has been received
17 from the bank where the deposit has been held. Such interest shall be paid over to the tenant as
18 provided in this clause; provided, however, that in the event that the tenancy is terminated before
19 the first anniversary date of such tenancy, the tenant shall receive all accrued interest within
20 thirty days of such termination. Interest shall not accrue for the last month for which rent was
21 paid in advance. Such lessor shall give or send to the tenant from whom rent in advance was
22 collected a statement which shall indicate the amount payable by such lessor to the tenant, within
23 thirty days of receiving the tenant's request therefor. The lessor shall at the same time give or
24 send to such tenant the interest which is due or shall notify the tenant that he may deduct the
25 interest from the next rental payment of such tenant.

26 SECTION 2. Said section 15B is hereby further amended by striking out paragraph (b) in
27 subsection 2, renumbering the current paragraph 2(c) as paragraph 2(b), and renumbering the
28 current paragraph 2(d) as paragraph 2(c).

29 SECTION 3. Said section 15B is hereby further amended by striking out subsection 3
30 and inserting in place thereof the following subsection:-

31 (3)(a) Any security deposit received by such lessor shall be held in a separate, interest-
32 bearing account in a bank, under such terms as will place such deposit beyond the claim of
33 creditors of the lessor, including a foreclosing mortgagee or trustee in bankruptcy, and as will
34 provide for its transfer to a subsequent owner of said property.

35 (b) A lessor of residential real property who holds a security deposit pursuant to this
36 section for a period of one year or longer from the commencement of the term of the tenancy
37 shall, beginning with the first day of the tenancy, pay the amount of interest as has been received
38 from the bank where the deposit has been held payable, to the tenant upon demand no more than
39 once per year or at the end of the tenancy. Such interest shall be paid over to the tenant as
40 provided in this clause, provided, however, that in the event that the tenancy is terminated before
41 the first anniversary date of the tenancy, the tenant shall receive all accrued interest within thirty
42 days of such termination. Such interest shall be beyond the claims of such lessor, except as
43 provided for in this section. The lessor shall within thirty days of the tenant's request give or
44 send to each such tenant the interest which is due or a notification that the tenant may deduct the
45 interest from the tenant's next rental payment. If, after thirty days the tenant has not received
46 such payment, the tenant may deduct from the next rent payment the interest due.

47 SECTION 4. Said section 15B is hereby further amended by striking out subsection 6
48 and inserting in place thereof the following subsection:-

49 (6) The lessor shall forfeit his right to retain any portion of the security deposit for any
50 reason, or, in any action by a tenant to recover a security deposit, to counterclaim for any damage
51 to the premises if the lessor:

52 (a) fails to deposit such funds in an account as required by subsection (3);

53 (b) fails to furnish to the tenant within thirty days after the termination of the occupancy
54 the itemized list of damages, if any, in compliance with the provisions of this section;

55 (c) uses in any lease signed by the tenant any provision which conflicts with any
56 provision of this section and attempts to enforce such provision or attempts to obtain from the
57 tenant or prospective tenant a waiver of any provision of this section;

58 (d) fails to transfer such security deposit to the lessor's successor in interest or to
59 otherwise comply with the provisions of subsection (5) after succeeding to an interest in
60 residential real property; or,

61 (e) fails to return to the tenant the security deposit or balance thereof to which the tenant
62 is entitled after deducting therefrom any sums in accordance with the provisions of this section,
63 together with any interest thereon, within thirty days after termination of the tenancy.

64 SECTION 5. Said section 15B s hereby further amended by striking out subsection 7 and
65 inserting in place thereof the following subsection:-

66 (7) If the lessor or his agent knowingly and willfully fails to comply with clauses (a), (d),
67 or (e) of subsection 6, and upon a finding that the lessor failed to comply within thirty
68 days of receiving the tenant's demand for compliance, the tenant shall be awarded actual
69 damages.