



Security Deposits

LEGAL RIGHTS

As a tenant, you have certain rights and responsibilities. These rights and responsibilities, with respect to security deposits, are summarized below. Part II of Chapter 83 of the Florida Statutes contains The Florida Residential Landlord Tenant Act, which governs the full body of Florida landlord/tenant law. Additionally, Miami-Dade County has established the Tenants' Bill of Rights which is found in Chapter 17 Code Ordinances of Miami-Dade County. This pamphlet is not intended to take the place of the law or legal advice specific to your case.

The Florida Landlord/Tenant law can be found here: <https://bit.ly/2FHRR1o>

WHAT IS A SECURITY DEPOSIT?

A security deposit is money a tenant pays to the landlord, to protect the landlord, if the tenant damages the rental unit or moves out of the unit owing money under the lease. Additionally, the landlord must treat "advance rent" like a security deposit. "Advance rent" is when a tenant pays last month's rent when they move into the unit. Security deposit law is governed by Florida Statutes Section 83.49.

WHAT IS A FEE IN LIEU OF A SECURITY DEPOSIT?

A fee in lieu of, or instead of a security deposit is a new option your landlord may offer you instead of paying a security deposit this change in the law went into effect on July 1, 2023. For more information regarding fees in lieu of a security deposit, check Florida Statutes Section 83.491.

If your rental agreement with your landlord requires a security deposit, your landlord MAY offer you the option to pay a fee in lieu of a security deposit.

If you decide to participate in the fee program (pay a fee in place of a security deposit), you must sign a written agreement with your landlord or your landlord's agent in order to collect a fee instead of a security deposit.

If your landlord offers the option to pay a fee in lieu of a security deposit, your landlord must notify you in writing of the following:

- You (the tenant) have the option, at any time, to pay a security deposit provided for in your rental agreement instead of the fee, even after you agree to pay the fee.
- You may, at any time, end the written agreement to pay the fee and instead pay a security deposit that is listed in the rental agreement between you and your landlord. If there is no security deposit listed, the security deposit must be an amount that is offered to new tenants for a substantially similar dwelling unit.
- While participating in the fee program (you chose to pay a fee instead of a security deposit), you may choose to pay the security deposit in monthly installments in an amount that you and your landlord agree to.
- Your landlord must inform you of the amount of the payments required for each option your landlord offers.
- The fee is nonrefundable.
- The fee is only for securing occupancy without paying a required security deposit.
- Paying the fee instead of a security deposit does NOT limit or change your obligation to pay rent and fees under the rental agreement, and paying the fee does NOT limit or change your obligation to pay the costs of repairing damage to the premises beyond normal wear and tear.
- If your landlord decides to use any portion of the fee you paid to purchase insurance, you are NOT insured or a beneficiary of your landlord's insurance policy. You are still obligated to pay rent, fees, and costs of repairing damage to the premises beyond normal wear and tear under the rental agreement.

If you choose to pay a fee in lieu of a security deposit, your landlord must notify you within 30 days after the end of your lease/tenancy if there are any costs or fees due resulting from unpaid rent, fees, or other obligations under the rental agreement, like costs for repairing damage to the premises beyond normal wear and tear.

This new section of the landlord tenant act does not prohibit you from purchasing insurance to cover loss related to your tenancy.

BEFORE YOU MOVE INTO A RENTAL UNIT

Before you pay your security deposit, you should do the following things:

- If you sign a lease, be sure it reflects the amount of the deposit, where the landlord will hold the deposit, and any advance rent you have paid.
- You should not pay the security deposit until you are certain that you have met all of the conditions to be eligible to rent the unit, or have written assurance that it is refundable in case you do not move in. Always get a receipt for any money you pay to a landlord.
- If you pay a security deposit before moving in and do everything else the lease requires, and the landlord does not let you move into the rental unit, you may sue them in Small Claims Court for the amount you paid if your damages are \$8,000 or less. See our brochure on Small Claims Court for more information.

HOW DO I GET MY SECURITY DEPOSIT BACK WHEN MY LEASE ENDS?

- **STEP 1 - Notify Your Landlord of Your Intent to Move.** If you have a written lease, it may contain a provision that requires you to notify your landlord of your plan to move out when the lease ends. A lease may require you to provide up to 60 days' notice to the landlord. You must follow the notice requirements in your lease; otherwise, you may owe additional money to your landlord.
- **STEP 2 - Request the Return of Your Security Deposit.** Use the form in this brochure and keep a copy for your records. Send it 7 days before you move out. In the letter, give the landlord an address where he can return the deposit to you. You must hand-deliver the letter to the landlord or send it by certified mail. We recommend you send the letter certified mail, return receipt requested. Also send a copy of the letter by regular mail, in case your landlord does not sign for the certified letter. Failure to provide your landlord with timely written notice of your move will result in a waiver of the 15- and 30-day obligations outlined in Step 4, and your landlord may not be required to send you written notice explaining whether they will keep all or part of your security deposit after you move. In that instance, to receive your security deposit, you would need to file a claim in Small Claims Court.
- **STEP 3 - Take Photos and Videos of Your Unit.** Be sure to take pictures and videos of the vacant unit before moving out and returning your keys to the landlord. This way you have proof of the unit's condition when you moved out. You should also have a witness inspect the unit. These will be helpful if the landlord tries to charge you for damages that were not there when you left. Some landlords will agree to conduct a walk-through inspection when you move out, but this is not required.
- **STEP 4 - Landlord's Duty to Return the Security Deposit.** If there is no damage and the landlord is not going to make a claim on the deposit, your landlord has 15 days after you move out to return the entire deposit. If your landlord plans to keep all or part of your security deposit, they must send you a written notice within 30 days after you move, telling you their plan to keep all or part of your security deposit and the reason why. Your landlord is only required to send you written notice if you told them where to mail the deposit. If the landlord's claim is less than your deposit, the landlord must also return the balance to you within 30 days. If your landlord does not send you a notice of claim on your deposit, then your landlord waives the right to your deposit, and they must return your entire deposit to you. However, your landlord could still sue you for damages after they return the deposit.
- **STEP 5 - Objecting to Your Landlord's Plan to Keep Your Security Deposit.** If your landlord sends you a notice that he plans to keep all or part of your security deposit, you have 15 days after you receive the notice to dispute any charges. You must send your letter objecting to the charges by certified mail, return receipt requested, to the address listed on the landlord's claim. Keep a copy of your letter for your records. You may lose your right to the deposit if you do not do object within 15 days. If you get to this step, try to negotiate an agreement with your landlord that is acceptable to you. Any agreements reached should be reduced to writing and signed by both parties, if possible. If you cannot reach an agreement with the landlord, you will have to go to Small Claims Court.
- **STEP 6 - Suing Your Landlord.** If your landlord will not return the deposit, you can sue the landlord by filing a lawsuit in Small Claims Court. If you win a court case, you get a judgment against your landlord. A judgment is a court order stating the landlord owes you money. It may not always result in the landlord paying you back.

Refer to our brochure on “How to Sue in Small Claims Court” for more information on how to do sue your landlord. You may also consult with a pro bono attorney at Legal Services’ Small Claims Clinic. For an appointment, call (305) 576-0080 and ask for an appointment with the Small Claims Clinic.

CAN I GET MY SECURITY DEPOSIT BACK IF I DO NOT DO EVERYTHING THE LEASE REQUIRES?

If you do not do what the lease requires, the landlord may try to keep all or part of your security deposit. A landlord may be allowed to keep your security deposit for: damage to the rental unit that is more than ordinary wear and tear; if you move out of the rental unit before the end of the lease or without giving proper notice; or if you owe your landlord rent.

Note that if you do bring a claim against your landlord for the deposit, that could cause them to try to countersue you for damages, such as any unpaid rent or damage to the unit.

LETTER REQUESTING RETURN OF SECURITY DEPOSIT

Date: _____

Landlord's Name

Landlord's Address

RE: REQUEST FOR RETURN OF SECURITY DEPOSIT

Dear _____:

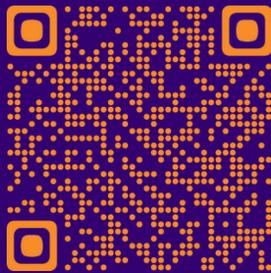
Pursuant to Florida Statutes 83.49, please send my security deposit to the following address:

Sincerely,

Signature

Print Name

Telephone



**SCAN for
more information**



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