

### **IC 32-31-3**

#### **Chapter 3. Security Deposits**

### **IC 32-31-3-1**

#### **Repealed**

*(Repealed by P.L.29-2003, SEC.2.)*

### **IC 32-31-3-1.1**

#### **Validity of certain rental agreements**

Sec. 1.1. Rental agreements entered into before July 1, 1989, remain valid and may be terminated, completed, consummated, or enforced as though this chapter had not been enacted.

*As added by P.L.16-2009, SEC.31.*

### **IC 32-31-3-2**

#### **"Cooperative housing association" defined**

Sec. 2. As used in this chapter, "cooperative housing association" means a consumer cooperative that provides dwelling units to its members.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-3**

#### **"Landlord" defined**

Sec. 3. As used in this chapter, "landlord" means:

- (1) the owner, lessor, or sublessor of a rental unit or the property of which the unit is a part; or
- (2) a person authorized to exercise any aspect of the management of the premises, including a person who directly or indirectly:

(A) acts as a rental agent; or

(B) receives rent or any part of the rent other than as a bona fide purchaser.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-4**

#### **"Owner" defined**

Sec. 4. (a) As used in this chapter, "owner" means one (1) or more persons in whom is vested all or part of the legal title to property.

(b) The term includes a mortgagee or contract purchaser in possession.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-5**

#### **"Person" defined**

Sec. 5. As used in this chapter, "person" means an individual, a corporation, an association, a partnership, a governmental entity, a trust, an estate, or any other legal or commercial entity.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-6**

**"Rent" defined**

Sec. 6. As used in this chapter, "rent" includes all payments made to a landlord under a rental agreement except a security deposit, however denominated.

*As added by P.L.2-2002, SEC.16.*

**IC 32-31-3-7****"Rental agreement" defined**

Sec. 7. (a) As used in this chapter, "rental agreement" means an agreement together with any modifications, embodying the terms and conditions concerning the use and occupancy of a rental unit.

(b) The term includes an agreement, regardless of what the agreement is called, that satisfies the following:

- (1) The agreement is entered into after June 30, 2008.
- (2) The agreement provides for a rental period, explicitly or implicitly, regardless of the term of the rental period.
- (3) The agreement contains an option to purchase.

*As added by P.L.2-2002, SEC.16. Amended by P.L.62-2008, SEC.2.*

**IC 32-31-3-8****"Rental unit" defined**

Sec. 8. As used in this chapter, "rental unit" means:

- (1) a structure, or the part of a structure, that is used as a home, residence, or sleeping unit by:
  - (A) one (1) individual who maintains a household; or
  - (B) two (2) or more individuals who maintain a common household; or
- (2) any grounds, facilities, or area promised for the use of a residential tenant, including the following:
  - (A) An apartment unit.
  - (B) A boarding house.
  - (C) A rooming house.
  - (D) A mobile home space.
  - (E) A single or two (2) family dwelling.

*As added by P.L.2-2002, SEC.16.*

**IC 32-31-3-9****"Security deposit" defined**

Sec. 9. (a) As used in this chapter, "security deposit" means a deposit paid by a tenant to the landlord or the landlord's agent to be held for all or a part of the term of the rental agreement to secure performance of any obligation of the tenant under the rental agreement.

(b) The term includes:

- (1) a required prepayment of rent other than the first full rental payment period of the lease agreement;
- (2) a sum required to be paid as rent in any rental period in excess of the average rent for the term; and
- (3) any other amount of money or property returnable to the tenant on condition of return of the rental unit by the tenant in

a condition as required by the rental agreement.

(c) The term does not include the following:

- (1) An amount paid for an option to purchase under a lease with option to purchase, unless it is shown that the intent was to evade this chapter.
- (2) An amount paid as a subscription for or purchase of a membership in a cooperative housing association incorporated under Indiana law.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-10**

#### **"Tenant" defined**

Sec. 10. As used in this chapter, "tenant" means an individual who occupies a rental unit:

- (1) for residential purposes;
- (2) with the landlord's consent; and
- (3) for consideration that is agreed upon by both parties.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-11**

#### **Jurisdiction of courts**

Sec. 11. (a) The following courts have original and concurrent jurisdiction in cases arising under this chapter:

- (1) A circuit court.
- (2) A superior court.
- (3) A municipal court.
- (4) A small claims court.

(b) A case arising under this chapter may be filed on the small claims docket of a court that has jurisdiction.

*As added by P.L.2-2002, SEC.16. Amended by P.L.201-2011, SEC.13.*

### **IC 32-31-3-12**

#### **Return of deposits; deductions; liability**

Sec. 12. (a) Upon termination of a rental agreement, a landlord shall return to the tenant the security deposit minus any amount applied to:

- (1) the payment of accrued rent;
- (2) the amount of damages that the landlord has suffered or will reasonably suffer by reason of the tenant's noncompliance with law or the rental agreement; and
- (3) unpaid utility or sewer charges that the tenant is obligated to pay under the rental agreement;

all as itemized by the landlord with the amount due in a written notice that is delivered to the tenant not more than forty-five (45) days after termination of the rental agreement and delivery of possession. The landlord is not liable under this chapter until the tenant supplies the landlord in writing with a mailing address to which to deliver the notice and amount prescribed by this subsection. Unless otherwise agreed, a tenant is not entitled to apply a security

deposit to rent.

(b) If a landlord fails to comply with subsection (a), a tenant may recover all of the security deposit due the tenant and reasonable attorney's fees.

(c) This section does not preclude the landlord or tenant from recovering other damages to which either is entitled.

(d) The owner of the dwelling unit at the time of the termination of the rental agreement is bound by this section.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-13**

#### **Use of deposits**

Sec. 13. A security deposit may be used only for the following purposes:

(1) To reimburse the landlord for actual damages to the rental unit or any ancillary facility that are not the result of ordinary wear and tear.

(2) To pay the landlord for:

(A) all rent in arrearage under the rental agreement; and

(B) rent due for premature termination of the rental agreement by the tenant.

(3) To pay for the last payment period of a residential rental agreement if a written agreement between the landlord and the tenant stipulates that the security deposit will serve as the last payment of rent due.

(4) To reimburse the landlord for utility or sewer charges paid by the landlord that are:

(A) the obligation of the tenant under the rental agreement; and

(B) unpaid by the tenant.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-13.5**

#### **Use of motor vehicle liens as security**

Sec. 13.5. A landlord may not require, but may accept, a lien on a motor vehicle that is owned by a tenant as a security deposit or to secure the payment of rent by the tenant. If a landlord accepts a lien on a motor vehicle as security under this section, the landlord must:

(1) file or record the lien under IC 32-33; and

(2) comply with the requirements of IC 32-31-3 concerning security deposits;

in order to enforce the lien.

*As added by P.L.47-2012, SEC.1.*

### **IC 32-31-3-14**

#### **Notice of damages; refund of remaining deposits**

Sec. 14. Not more than forty-five (45) days after the termination of occupancy, a landlord shall mail to a tenant an itemized list of damages claimed for which the security deposit may be used under section 13 of this chapter. The list must set forth:

- (1) the estimated cost of repair for each damaged item; and
- (2) the amounts and lease on which the landlord intends to assess the tenant.

The landlord shall include with the list a check or money order for the difference between the damages claimed and the amount of the security deposit held by the landlord.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-15**

#### **Remittance of full deposit**

Sec. 15. Failure by a landlord to provide notice of damages under section 14 of this chapter constitutes agreement by the landlord that no damages are due, and the landlord must remit to the tenant immediately the full security deposit.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-16**

#### **Liability for withheld deposits**

Sec. 16. A landlord who fails to comply with sections 14 and 15 of this chapter is liable to the tenant in an amount equal to the part of the deposit withheld by the landlord plus reasonable attorney's fees and court costs.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-17**

#### **Waiver of chapter**

Sec. 17. A waiver of this chapter by a landlord or tenant is void.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-18**

#### **Disclosure of managers and agents**

Sec. 18. (a) A landlord or a person authorized to enter into a rental agreement on behalf of the landlord shall disclose and furnish to the tenant in writing at or before the commencement of the rental agreement the names and addresses of the following:

- (1) A person residing in Indiana who is authorized to manage the dwelling unit.
- (2) A person residing in Indiana who is reasonably accessible to the tenant and who is authorized to act as agent for the owner for purposes of:
  - (A) service of process; and
  - (B) receiving and receipting for notices and demands.

A person who is identified as being authorized to manage under subdivision (1) may also be identified as the person authorized to act as agent under subdivision (2).

(b) This section is enforceable against any successor landlord, owner, or manager.

(c) A person who fails to comply with subsection (a) becomes an agent of each person who is a landlord for purposes of:

- (1) service of process and receiving and receipting for notices

and demands; and

(2) performing the obligations of the landlord under law or the rental agreement.

(d) If the information required by subsection (a) is not disclosed at the beginning of the rental agreement, the tenant shall be allowed any expenses reasonably incurred to discover the names and addresses required to be furnished.

*As added by P.L.2-2002, SEC.16.*

### **IC 32-31-3-19**

#### **Sale of property; liability for deposits; exceptions**

Sec. 19. (a) Unless otherwise agreed, if a landlord conveys, in a good faith sale to a bona fide purchaser, property that includes a dwelling unit subject to a rental agreement, the landlord is relieved of liability under law or the rental agreement as to events occurring after written notice to the tenant of the conveyance. However, for one (1) year after giving notice of the conveyance, the landlord remains liable to the tenant for the security deposit to which the tenant is entitled under section 14 of this chapter unless:

(1) the purchaser acknowledges that the purchaser has assumed the liability of the seller by giving notice to the tenant; and

(2) upon conveyance the seller transfers the security deposit to the purchaser.

(b) Unless otherwise agreed, a manager of a dwelling unit is relieved of any liability the manager might have under law or the rental agreement as to events occurring after written notice to the tenant of the termination of the manager's management.

*As added by P.L.2-2002, SEC.16.*