

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

AB 12 (Haney)  
Version: April 5, 2023  
Hearing Date: June 20, 2023  
Fiscal: No  
Urgency: No  
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**SUBJECT**

Tenancy: security deposits

**DIGEST**

This bill limits the maximum amount a landlord can demand for a security deposit at one month's rent.

**EXECUTIVE SUMMARY**

Current law provides that a landlord cannot demand or receive security, however denominated, in an amount in excess of two months' rent for an unfurnished residential property or three months' rent for a furnished property, in addition to any rent for the first month. There is an exception for renters that are service members that reduces those caps by one month each, except where the service member has a history of poor credit or of causing rental property damage.

Given the significant upfront financial burden that such potentially high security deposits impose on renters, in addition to the other charges that may be involved, such as application fees and first month's rent, this bill seeks to lower the threshold for security deposits to one month's rent maximum, in order to eliminate this barrier for many Californians.

The bill is author-sponsored. It is supported by a wide variety of labor groups, legal aid organizations, and tenant advocacy groups, including the California Labor Federation and Tenants Together. It is opposed by several industry associations, including the California Rental Housing Association and the California Business Roundtable. They argue in opposition that the bill denies landlords needed flexibility and thereby exacerbates California's housing crisis.

## PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Defines “security” for the rental of residential property as any payment, fee, deposit, or charge, including any payment, fee, deposit, or charge, except as provided, 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. (Civ. Code § 1950.5(b).)
- 2) Excludes from the definition of “security” any permissible application screening fee that a landlord charges a prospective tenant. (Civ. Code §§ 1950.5(b), 1950.6.)
- 3) Permits a landlord to require two months’ rent as security for an unfurnished rental property or three months’ rent as security for a furnished rental property, except as provided, while clarifying that a landlord may separately require a tenant to pay the first month’s rent on or before the tenant’s initial occupancy. (Civ. Code § 1950.5(c)(1).)
- 4) Prohibits a landlord from requiring a security deposit from a service member higher than one month’s rent, unless furnished, in which case it is two times the monthly rent. However, if the service member has a history of poor credit or of causing damage to the rental property or its furnishings, the caps that apply generally control. (Civ. Code § 1950.5(c)(2).)
- 5) Requires the security to be held by the landlord for the tenant who is party to the lease or agreement. The landlord may claim of the security only those amounts as are reasonably necessary for the purposes specified. (Civ. Code § 1950.5(d), (e).)

This bill limits the security deposit amount a landlord can collect for a rental property to no more than one month’s rent, regardless of whether the property is furnished or unfurnished.

## COMMENTS

### 1. Paying high security deposits is a barrier to housing

Obtaining residential rental housing in California is difficult. One barrier to obtaining housing is the common demand that tenants pay a security deposit to the landlord. While the security deposit is theoretically refundable shortly after the end of the tenancy, the need to pay a security deposit up front means that tenants must have and pay a significant amount of money before they can move in.

Existing California law caps the amount that landlords can charge prior to move-in. For unfurnished properties, a landlord can charge the first month's rent and up to two times the amount of the monthly rent as a security deposit. In the case of furnished properties, landlords may charge the first month's rent and up to three times the amount of the monthly rent as a security deposit.

For *many* low-income Californians, the need to pay a large security deposit is a significant barrier to obtaining new housing. If you are living paycheck to paycheck, you may have sufficient income to afford a monthly rent payment in a new place, but you may very well *not* have two times that amount sitting around and immediately available to offer up as a security deposit even if, in theory, you can one day get that deposit back.

This cash flow problem is exacerbated by two additional factors. First, there are often many other expenses associated with moving (renting a truck, deposits and fees for utility hook up and the installation of other home services, etc.). These other moving expenses eat into whatever resources the tenant might otherwise ordinarily have on hand. Second, tenants transitioning from one rental to another cannot count on their prior security deposit as the source for the security deposit for their new rental. Even if the prior landlord returns the security deposit in full, California law does not require that landlord to do so until 21 days after move-out (Civ. Code § 1950.5(g)(1)). Meanwhile the new landlord can, and usually will, demand payment of the new security deposit prior to move-in. Thus, the old security deposit is rarely of any help toward the payment of the new security deposit.

The concept of a lower cap on security deposits would not be unprecedented. While a host of other states do not have any caps, a growing number have security deposit caps that are lower than California's:

- Alabama: one month's rent, except as provided (Ala. Code § 35-9A-201);
- Arizona: one and one-half month's rent (Ariz. Rev. Stat. § 33-1321);
- Delaware: one month's rent for unfurnished (Del. Code Ann. tit. 25, § 5514);
- Hawaii: one month's rent (Haw. Rev. Stat. Ann. § 521-44);
- Kansas: one month's rent for unfurnished and one and one-half month's rent for furnished apartments (K.S.A. § 58-2550);
- District of Columbia: one month's rent (14 D.C.M.R. § 308.1);
- Massachusetts: one month's rent (Mass. Ann. Laws ch. 186, § 15B);
- Michigan: one and one-half months' rent (Mich. Comp. Laws Serv. § 554.602);
- Nebraska: one month's rent (Neb. Rev. Stat. Ann § 76-1416);
- New York: one month's rent, except as provided (N.Y. Gen. Oblig. Law § 7-108);
- North Dakota: one month's rent, except as provided (N.D. Cent. Code § 47-16-07.1); and
- Rhode Island: one month's periodic rent (R.I. Gen. Laws Section 34-18-19).

Setting a lower security deposit cap is not even unprecedented within California law. Recognizing the burden that high security deposits can impose, SB 644 (Glazer, Ch. 602, Stats. 2019) lowered the amount that a landlord can charge active duty military service members, as defined, for a security deposit on residential rental housing. The maximum allowed security deposit charge to active duty military personnel is the amount of the monthly rent, for unfurnished property, and two times the amount of the monthly rent for furnished property, except as provided.

## 2. Lowering the security deposit cap in California

According to the author:

When renters can't afford deposits they often have to borrow from predatory lenders, go into debt, or just stay put. Landlords lose out on good tenants, and tenants stay in apartments that are too crowded or have unsafe living conditions. Creating a rental deposit cap is a simple change that will have an enormous impact on housing affordability for families in California.

This bill replaces the existing provisions with a flat cap on security deposits at one month's rent.

Writing in support, Asian Americans Advancing Justice explains the need for the bill:

California is falling behind the rest of the country in protecting tenants and ensuring housing access. The high rents and, consequently, the expensive security deposits serve as a barrier to housing for millions of Californians.

While many families are able to afford their monthly rent, the requirement for three or two months' rent solely for a security deposit places a tremendous financial burden on many who cannot afford it. 53% of California renters are able to afford their rent, but they are unable to get an apartment because they simply cannot afford to pay the security deposit.

This pushes many families, including those with individuals making minimum wage, to either forgo necessities such as food and utilities or acquire more debt in order to be approved for housing.

Additionally, the high-security deposit laws are exacerbating California's homelessness crisis. There are approximately 172,000 Californians experiencing homelessness. The collective cost of housing is pushing

people into homelessness at a faster rate than the State is able to provide services.

The California Labor Federation writes in support:

Over 17 million Californians live in rental housing. Rents have skyrocketed across the state with workers paying increasingly more of their paychecks to afford a place to live. Half of all renters spend more than 30 percent of their income rent, while a quarter spend over 50 percent—stretching family budgets to the breaking point.

Higher rents can result in higher security deposits. Under current California law, landlords can charge renter up to three months' rent for their security deposit. The average security deposit for a one-bedroom in San Francisco can be as much as \$10,000. In Los Angeles, the average renter can pay as much as \$8,000 for a security deposit. This does not include the first and last month's rent payments that many renters also must pay.

The high price of security deposits makes rental housing unattainable to renters who are less likely to have savings to pay the deposit. In 2022, 57 percent of Americans did not have \$1,000 in savings to cover an emergency, let alone a security deposit ten times that amount. The price of security deposits makes units inaccessible or financially burdensome on renters living paycheck to paycheck.

AB 12 (Haney) limits the amount landlords can charge for a security deposit to one month's rent eliminating one barrier to housing for renters. Working Californians bear the brunt of the housing crisis as they are forced to live further from their jobs and pay more of their wages on housing and this bill is a step to lessening some of the burden.

### 3. Opposition

The California Business Roundtable writes in opposition:

Security deposits are essential for rental housing providers to manage risks associated with property rentals. Restricting the ability to collect sufficient security deposits may discourage housing providers from offering rental homes, exacerbating the housing supply crisis. Additionally, implementing a uniform approach overlooks regional rental price disparities across California. One month's rent may be suitable for some areas and owners, but insufficient for others. The proposed one-size-fits-all policy fails to address the diverse rental market in California.

Current California law strikes a balance, allowing flexibility for small housing providers to request up to two months' rent for unfurnished units and up to three months' rent for furnished units. Special considerations are also provided for military personnel. AB 12 disregards housing unit diversity and denies small providers the necessary flexibility, worsening the housing crisis while the existing approach considers the state's population size, housing types, amenities, and locations.

A coalition of rental housing organizations, including the California Rental Housing Association asserts:

While the goal of AB 12 may be to allow potential tenants more access to housing, AB 12 will in actuality have the opposite effect. This proposed legislation may actually reduce the rental housing supply throughout California, especially in lower-cost rental markets, as well as eliminate the risk mitigation that security deposits provide.

First, charging security deposits allows for rental property providers to balance risk associated with renting out property. Without the ability to collect enough in security deposit to cover potential damages, rental property providers may decide to remove their homes from the rental market - further exacerbating the housing supply crisis. Past security deposit limitations have been fair to balance the risk and revenue potential of providing housing. Especially with our smaller owners, may not feel they have the appropriate "risk/revenue" balance and may pull their rental units off the market. Secondly, there are regional differences in rent throughout the state that makes a one size fits all approach of limiting security deposits to only one month's rent is impractical. While one month's rent in more expensive areas of the state may be enough to cover potential damages, one month's rent in more affordable parts of the state is much less. Security deposits are not the main driver preventing tenants from finding housing in the state, rather it is the lack of affordable housing units.

### SUPPORT

ACLU California Action

AFSCME

AIDS Healthcare Foundation

Asian Americans Advancing Justice

California Coalition for Youth

California Conference Board of the Amalgamated Transit Union

California Conference of Machinists

California Federation of Teachers

California Foundation for Independent Living Centers

California Immigrant Policy Center  
California Labor Federation, AFL-CIO  
California School Employees Association  
California State Council of Service Employees International Union (SEIU California)  
California Teachers Association  
California Teamsters Public Affairs Council  
City and County of San Francisco Board of Supervisors  
City of Santa Monica  
Coalition on Homelessness  
Compass Family Services  
County of Los Angeles Board of Supervisors  
End Poverty in California  
Engineers & Scientists of California, Local 20, IFPTE, AFL-CIO  
GLIDE  
The Gubbio Project  
Justice in Aging  
Larkin Street Youth Services  
Monument Impact  
National Association of Social Workers, California Chapter  
National Housing Law Project  
New Livable California  
Public Counsel  
Service Employees International Union (SEIU) Local 1000  
Tenants Together  
UNITE-HERE, AFL-CIO  
United Food and Commercial Workers Western States Council (UFCW)  
University of California Student Association  
Urijah Faber's A1 Combat Firepower Promotions, Inc.  
Utility Workers Union of America  
Western Center on Law and Poverty  
Women Democrats of Sacramento County

**OPPOSITION**

Apartment Association of Greater Los Angeles  
Apartment Association of Orange County  
Berkeley Property Owners Association  
California Association of Realtors  
California Business Roundtable  
California Rental Housing Association  
East Bay Rental Housing Association  
Nor Cal Rental Property Association  
North Valley Property Owners Association  
Southern California Rental Housing Association

**RELATED LEGISLATION**

Pending Legislation: SB 611 (Menjivar, 2023) requires a landlord that charges a higher security deposit on a service member tenant based on the service member's history of poor credit or of causing damage to the rental property to clearly disclose the amount and the reasoning in the lease agreement. The landlord is required to refund the additional amount within six months if the tenant is not in arrears for any rent due where the higher amount is not due to a prior history of residential property damage. This bill is currently in the Assembly Judiciary Committee.

Prior Legislation: SB 644 (Glazer, Ch. 602, Stats. 2019) *See* Comment 1.

**PRIOR VOTES:**

Assembly Floor (Ayes 53, Noes 14)  
Assembly Judiciary Committee (Ayes 8, Noes 3)

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