

## **Security Deposit or Move-In Fee: Tenants Deserve a Choice**

Moving into a new apartment is a costly undertaking.

Beyond the time spent searching for that apartment, there are application fees and various moving expenses, including the cost of renting a van or hiring a moving company. When a tenant secures a new place in Chicago, they often encounter a non-refundable move-in fee, which can range from three or four hundred dollars to an amount two or three times that, all at the housing provider's discretion.

Outside of Chicago, the more customary practice is to require tenants to pay a security deposit, typically ranging from one month's rent to the first and last month's rent. The benefit for tenants is that they are entitled to a full refund of the security deposit if they leave their apartment in a clean and orderly condition, save for ordinary wear and tear, and pay the full rent due.

In Chicago, however, housing providers rarely accept security deposits due to that nasty four letter acronym: RLTO.

The Chicago Residential Landlord and Tenant Ordinance, adopted nearly 40 years ago, is notorious for allowing tenants' attorneys to sue housing providers for even minor errors in security deposit handling or return. Housing providers have been sued for being pennies off in interest calculations on deposits, failing to offer the tenant a proper receipt, or failing to immediately deposit the funds into a separate account.

I experienced this abuse firsthand when my tenant's lawyer threatened a lawsuit because I forgot to update her lease renewal with the current interest rate for security deposits (which remained at .01% from the previous year but required the current year's form). Ironically, she didn't even have a security deposit, yet I was obligated under the RLTO to inform her of the interest rate as if she had one.

This innocent oversight forced me to release my tenant from her lease in October, causing a winter vacancy in my building that I was unable to fill for two months.

The RLTO's strict language leaves judges with no discretion; any proven infraction, no matter how small or unintentional "shall" result in damages of double the deposit plus attorney's fees. Many housing providers have also been subject to hugely expensive class action lawsuits (at times, in the six figures), again often for the slightest infraction.

Housing providers for years have been advocating for a one-word amendment to the ordinance (changing the word “shall” to “may,” allowing for judicial discretion) but with no success.

It’s no wonder why housing providers in Chicago almost universally opt for non-refundable move-in fees instead of security deposits. Usually, these move-in fees require tenants to provide a significantly lower upfront payment than a security deposit.

Interestingly, our informal surveys suggest that many tenants, facing the immediate costs of moving, prefer a smaller non-refundable move-in fee (like my \$350 charge) over a larger security deposit (for a \$1,500 apartment, a 1.5-month deposit would be \$2,250, in addition to the first month’s rent).

Ideally, housing providers should be able to offer their tenants a choice: a refundable security deposit or a considerably smaller, non-refundable move-in fee. The latter allows us to create a reserve for damages and cleaning without the high risk associated with RLTO compliance. These funds also help to offset the rising costs of tenant screening (especially with increased ID fraud) and apartment preparation.

A potential challenge looms on the horizon, however. The Illinois General Assembly is considering legislation that would ban move-in fees statewide. If this happens, Chicago housing providers will be placed in a real bind, as most of us are hesitant to handle security deposits under the RLTO. Without the ability to collect move-in fees, we might be forced to increase the rent for all tenants, which would unfairly affect our long-term, responsible residents.

Tenant preferences on this issue appear divided, based on our informal surveys. Some prefer a fully refundable security deposit of a larger amount while others prefer a nonrefundable movein fee of a lesser amount.

In my opinion, the most sensible solution would be for Chicago to reform the RLTO. Modifying the punitive aspects, such as “shall” to “may” regarding damages or implementing a “right to cure” for minor non-compliance, would be significant improvements. Additionally, eliminating the requirement to pay interest on security deposits, which has been negligible for well over a decade and creates considerable administrative burdens (think of uncashed checks for pennies), would be beneficial.

By making these changes and allowing housing providers to offer tenants a choice between a security deposit and a move-in fee, Chicago could create a more balanced relationship, benefiting both tenants and housing providers.

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May 9, 2025