

Serial 325
Residential Tenancies Amendment Bill 2001
Mr Baldwin

**A BILL
for
AN ACT**

to amend the *Residential Tenancies Act*

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2001

AN ACT

to amend the *Residential Tenancies Act*

[Assented to 2001]
[Second reading 2001]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Residential Tenancies Amendment Act 2001*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. When landlord may keep security deposit

Section 112 of the *Residential Tenancies Act* is amended –

- (a) by inserting in subsection (2) ", or to continue to hold," after "retain";
- (b) by omitting from subsection (3)(e) "117" and substituting "118";
- (c) by inserting in subsection (5) ", or to continue to hold under subsection (6)," after "retain" (first occurring);
- (d) by inserting in subsection (5)(a) "or continue holding" after "retain";
- (e) by inserting in subsection (5)(b) "or continued holding" after "retention";

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(f) by adding at the end of subsection (5)(e) "or not to be held under subsection (6)"; and

(g) by adding at the end the following:

"(6) If, in the opinion of the landlord, the tenant has abandoned the premises, the landlord may continue to hold on trust for the tenant as much of the security deposit as is necessary to ensure that the deposit will be available for payment to the landlord in accordance with section 122 as compensation for –

- (a) loss of the rent that the tenant would have been liable to pay under the agreement if he or she had not abandoned the premises; and
- (b) loss caused to the landlord in securing new tenants for the premises.

"(7) Subject to subsection (9), an amount of a security deposit held by a landlord under subsection (6) is to be held on trust for the tenant until –

- (a) the Commissioner determines the distribution of the security deposit under section 122; or
- (b) if the Commissioner is satisfied that all losses referred to in subsection (6) may be calculated in relation to the tenancy to which the deposit relates – the Commissioner determines the distribution of the deposit on the application of the tenant under this Act.

"(8) The landlord is not entitled to claim under section 122 part or all of the amount of the loss referred to in subsection (6) unless –

- (a) the Commissioner receives an application to determine the distribution of the tenant's deposit; or
- (b) the loss is claimed under section 122,

as soon as practicable after the loss can be calculated or in any case within 3 months from the date on which the tenant apparently abandoned the premises.

"(9) If the landlord ceases under subsection (8) to be entitled to claim part or all of the amount of the loss referred to in subsection (6), the tenant is entitled to as much of the security deposit as the landlord continued to hold on trust for the tenant under subsection (6) and section 116 applies accordingly."