



Rent Stabilization Board

## IMPORTANT INFORMATION FOR LANDLORDS AND TENANTS

### ► NEW OPTION FOR CALCULATING INTEREST ON TENANT SECURITY DEPOSITS

**The applicable interest rate to be paid in December 2008 for security deposits held through October 31, 2008, is 3.4%.**

The Rent Board recently amended Regulation 702 (amendment became effective on November 3, 2008), and **next year (December 2009)** Berkeley landlords will be able to choose between two different ways of determining the rate of interest that accrues on their tenants' security deposits.

For the past few years (this year included), Berkeley landlords have been required to pay interest on tenant security deposits at the average yield rate for six-month certificates of deposit as reported by the Federal Reserve Board. While landlords have been required to return interest at the Federal Reserve CD rate, they have been free to use or invest the security deposits in any manner they choose. In November of each year the Rent Board has computed the Federal Reserve CD rate average and notified landlords of the applicable rate for the December interest refund payment.

**The Rent Stabilization Board recently amended Regulation 702 to provide an alternate method of calculating the interest for landlords who keep the deposits in a qualifying account, i.e., an insured account at a financial institution located in Berkeley.** Beginning with the December 2009 interest refund payment, landlords who have held their tenants' security deposit in a qualifying account for the prior twelve months, may pay interest on the security deposits at the 12-month average of the average rates of interest offered on six-month CDs, \$5,000 minimum deposit, by commercial banks located in Berkeley on the first business day of each month. It is expected that this rate will generally be somewhat lower than the Federal Reserve six-month CD rate.

**To qualify for the Berkeley bank CD rate for a future December interest refund payment, the tenant's deposit must have been held in an insured account at a bank or credit union physically located within the City of Berkeley for the twelve months ending the prior October 31<sup>st</sup>** (or since the tenancy began if the tenancy is less than twelve months old) and, when the interest is refunded to the tenant, the landlord must provide the tenant and the Rent Board with the identity of the Berkeley bank account using a Rent Board form. The Regulation 702 amendment became effective on November 3, 2008. It will **not** affect the interest payment due in December 2008. The new rate will be effective for the December 2009 interest payment for landlords who have their tenant's security deposit in a qualifying Berkeley account on or before November 3, 2008, and hold it there until October 31, 2009. Rent Board staff will obtain the interest rate data directly from local banks on the first business day of each month and in November will notify landlords of the rate of interest to be used in calculating the interest refund payment to be made in December.

Landlords who do not choose to place their deposits in a qualifying Berkeley account will continue to pay interest at the Federal Reserve six-month CD rate. The Rent Board will resolve any disputes over the applicable rate of interest.

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► **THE 2009 AGA CANNOT BE IMPOSED ON A RENTAL UNIT IF THE CURRENT TENANCY BEGAN IN 2008.**

AGAs are intended to compensate landlords for the increases in maintenance, operating costs and inflation that occurred during the prior year. For tenancies that began in 2008 and for which the landlord was allowed to set the initial rent at a market rate, it is presumed by California state law that these increased costs were factored into the new rent. These tenancies will not be eligible for a general rent increase until the 2010 AGA.

► **THE 2009 AGA CANNOT BE IMPOSED IF THE PROPERTY IS NOT PROPERLY REGISTERED.**

The landlord must have registered all rental units at the property in accordance with the Rent Stabilization Ordinance and be in compliance with the orders and regulations of the Rent Board, including the requirement to promptly file a Vacancy Registration Form for any new tenancy commencing on or after January 1, 1996.

► **LANDLORDS MUST NOTIFY TENANTS OF RIGHT TO AN INSPECTION BEFORE TENANT VACATES.**

Under State law, landlords are obligated to inform tenants **in writing** that tenants have a right to a walkthrough inspection within the last two weeks of the tenancy after either party notifies the other party of the intention to terminate the tenancy. A landlord has no duty to perform this inspection if the tenants inform the landlord that they do not want it. Immediately after the walkthrough inspection, landlords are required to give the tenants an itemized list of repairs and cleaning that needs to be done to avoid authorized deductions from the security deposit. A landlord that fails to give the tenant a reasonable opportunity to correct problems may not be able to deduct for their repair. Additional information about rights and obligations concerning security deposits is available at our website or by calling our housing counselors.

► **TENANTS IN BERKELEY CAN ONLY BE EVICTED FOR GOOD CAUSE.**

For all sitting tenants, Berkeley's Rent Stabilization Ordinance prohibits evictions except for specific good causes listed in the Ordinance. For example, **a landlord cannot force a tenant to move just because the lease has expired or because the property has been foreclosed by the bank or lending institution.** In addition, under the Ordinance, the landlord cannot change the terms of the tenancy unilaterally or require the tenant to sign a new lease with different terms.

► **TENANTS HAVE A RIGHT TO SAFE AND HABITABLE HOUSING.**

If a rental unit has health and safety problems, such as a leaking roof, unsanitary plumbing or lack of heat, the landlord is required to fix them promptly. The tenant must first inform the landlord of the problem, preferably in writing. If the problem is not fixed, the tenant should request an inspection from a Berkeley Housing Inspector by calling (510) 981-5444. If violations are found, the landlord would be cited and required to correct any problems in the unit. The tenant may also petition the Rent Board for a temporary rent reduction for the period that the problem exists. Under the Rental Housing Safety Program (510) (981-5445) owners are required to inspect their rental units and certify to tenants that they meet code requirements each year.