

## What can be deducted from your security deposit?

1. Any charge specified in the lease or any charge resulting from your breaking the lease.
2. Charges for damages, wear and tear resulting from negligence, carelessness, accident or abuse on your part. "Normal wear and tear" items cannot be deducted.
3. Unpaid rent and other unpaid charges listed in your lease, such as those for late rent payment, returned checks, missing furniture or fixtures, unreturned keys, etc.
4. The reasonable cost of cleaning if you fail to properly clean before you leave. Many rental properties have written cleaning instructions for you to follow.
5. Any deduction must be listed in a written description and itemization mailed to you on or before 30 days after you leave. However, there is no obligation that you be furnished this information if you have not paid all of your rent or if you have not given your forwarding address in writing.

## If you must move before your lease expires

Immediately notify the manager and offer to help find a new resident. Normally you still will be liable for all of the rent for the remainder of the unexpired lease term even if you've quit school, changed jobs, lost a roommate, etc., but sometimes this can be worked out if you find a replacement. You may also be responsible for a reletting fee if the lease provides for one. This fee is a liquidated amount for damages to compensate the owner for the time and expense incurred in finding a new resident.



If you have signed a TAA lease, the rental property owner or the company managing the property or the apartment locator service you used must be a member of the local apartment association governing that area. These TAA affiliates are often available to advise you in the event of disagreement and are located in the cities listed below. The Texas Apartment Association refers all resident disputes to the local apartment association governing the property concerned.

**Big Country**, Abilene  
**Panhandle**, Amarillo  
Austin, Austin  
**Southeast Texas**, Beaumont  
**Bryan/College Station**, Bryan  
**Corpus Christi**, Corpus Christi  
Corsicana, Corsicana  
**Greater Dallas**, Dallas  
El Paso, El Paso  
**Tarrant County**, Fort Worth  
**Galveston County**, Galveston  
Central Texas, Belton  
**Rio Grande Valley**, Harlingen  
Houston, Houston

**Greater Longview**, Longview  
**Lubbock**, Lubbock  
Midland, Midland  
**Permian Basin**, Odessa  
**Piney Woods**, Nacogdoches  
San Angelo, San Angelo  
**San Antonio**, San Antonio  
**Texarkana Area**, Texarkana  
Tyler, Tyler  
Victoria, Victoria  
**Heart of Texas**, Waco  
**North Texas Rental Properties**,  
Wichita Falls



# Residential Rental Housing, Apartment Living and Texas Law

Prepared by  
the Texas Apartment Association  
in cooperation with its  
26 affiliated associations in Texas

One of the most important decisions a person makes is finding a place to live. If you are renting, you will sign a lease, which is a legal obligation to live someplace and pay rent for a certain length of time (usually six months or a year). There are very few exceptions in which a lease can be broken. Therefore, your rental home should be chosen with great care.

## When you fill out an application

Once you find a place where you want to live, you will be required to fill out a rental application. In most cases, you will be charged an application *fee* to cover the cost of running credit checks, verifying rental histories, etc. This fee is non-refundable.

You may also be asked to pay an application *deposit*. This deposit is applied toward your security deposit if your application is approved. If it is not, the deposit is refundable in most cases. However, depending on the application you fill out, the deposit may not be refunded if you are accepted but decide not to move in, you fail to tell the truth on your application, or for certain other reasons. If an owner in bad faith fails to timely return an application deposit, the owner may be liable for a fine of \$100, three times the amount of the application deposit and reasonable attorney's fees. There is no statutory deadline for return of an application deposit.

Texas law provides that a rental applicant will be presumed to be rejected at the end of the seventh day after the owner receives a completed rental application or application deposit, unless the owner notifies the applicant of acceptance by that time. If the seventh day falls on a Saturday, Sunday or holiday, the deadline for notifying

an applicant of acceptance is extended until the end of the next day following the Saturday, Sunday or holiday.

## Avoiding problems

Most disagreements between residents and rental housing owners or managers occur because of misunderstandings about the obligations taken on by each party when an apartment or other rental housing is leased. The best ways to avoid problems are to:

1. Read your lease carefully before signing.
2. Ask questions about anything that is unclear.
3. Put everything in writing, including agreements, notices and requests.

## After you sign the lease

Keep a copy signed by you and the owner or manager. The lease is the most important set of rules to follow if you have a disagreement. Also keep a copy of the apartment or rental housing rules (sometimes called "community policies").

Make a checklist of conditions of the property and furniture when you move in. (Most properties use an inventory and condition form). Sign it, have the manager sign it and keep a dated copy. This will be your best defense in any dispute over deductions for repairs when

## What to look for in your lease

**1** Check to see how much advance notice you must give before moving at the end of your lease term. (A 30-day written notice is normal when rent is paid monthly.)

**2** Look for security deposit refund restrictions.

**3** Look for your rental housing owner's obligation to make needed repairs. (A requirement for diligence is common.)

**4** Be sure to read any cleaning instructions. (Cleaning costs usually can be deducted from your security deposit if you fail to follow instructions.)

**5** Check on prohibitions against subletting or keeping animals. (Written permission is usually required. Also, there is usually an extra deposit for animals.)

**6** Ask the manager to write in and initial any oral agreements or changes in the lease that are agreed to by you and the owner's representative.



The Texas Apartment Association encourages and supports fair housing laws. It is illegal to discriminate in housing because of race, color, religion, sex, disability, familial status or national origin.

you move out. Keep your rent payment current as required by your lease. You should not withhold rent, since that could make you subject to eviction and liable for paying the remaining rent.

### Renters insurance

You should obtain renters insurance to provide protection for your personal belongings in case of burglary, vandalism, fire, storm damage and other disasters. The property owner's insurance does not cover your personal belongings against loss. Unless you obtain renters insurance you may also be personally liable to the owner and others for certain acts which are normally covered by renters insurance policies.

### If anything needs to be repaired

If the lease requires the management to make repairs, inform the manager in writing and keep a dated copy.

The law requires in nearly every instance that the owner must repair security devices and conditions that materially affect the health and safety of the ordinary resident. Give the manager written notice of the needed repairs, and keep a dated copy. If you don't receive a response within a reasonable time, re-notify the manager orally and in writing. If you still don't get a response, you may have legal grounds to exercise statutory rights of lease termination, compulsory repairs, damages, penalties, third-party repair and deduct, and attorney's fees. (Instead of giving two separate written notices, you can give a single notice by certified mail, return receipt requested.)

Specific procedures must be followed for statutory remedies, and disregarding those procedures can expose you to a civil damages suit against you by the owner. Repairs of problems resulting in mere discomfort or inconvenience are not covered by the statute. The city building inspector's office or county health department can be of some help if the condition violates state statutes or local housing codes regarding safety and sanitation.

### Smoke detectors

All residential rental dwellings (including apartments) must have smoke detectors installed by the owner. You may demand installation of a smoke detector at the owner's expense, if your dwelling unit does not have a detector. You are responsible for replacing batteries during your lease term and checking to make sure that the smoke detector is working. It is a violation of Texas law to disable or disconnect a smoke detector. It is also a violation if you remove working batteries without replacing them. Anyone who disables a smoke detector may be responsible for damages if a fire occurs.

### What are your rights regarding security devices?

The Texas Property Code requires that the owner provide to you at no cost when occupancy begins:

1. A window latch on each window;
2. A doorknob lock or a keyed deadbolt lock on each exterior door, with certain exceptions;
3. A keyless bolting device (keyless deadbolt lock) on each exterior door, with certain exceptions for elderly and disabled residents;
4. A doorviewer (peephole) on each exterior door;
5. A pin lock on each sliding glass door; and
6. A security bar or door handle latch on each sliding glass door.

Texas law also requires the owner to rekey all exterior door locks between (1) the time the prior resident moved out and (2) the seventh day after you move in.

If the owner fails to install or rekey security devices as required by the Property Code, you have the right to do so and deduct the reasonable cost from your next rent payment under Sections 92.165(1) and 92.164 (a) (1) of the Code.

Subject to some limitations, under Texas law you may at any time ask the owner to:

1. Install a keyed deadbolt, keyless deadbolt and doorviewer on all exterior doors;
2. Install a pin lock and security bar on all sliding glass doors; and
3. Change or rekey locks or latches.

The owner must comply with those requests, but you must pay for them unless the device is required by statute when occupancy begins.

### Who is the owner or management company?

On occasion you may want to find out the name and address of the owner or the management company that is responsible for the property. Upon written request to the managing agent of the owner, you are entitled to be given the name and mailing address of the owner and/or the name and street address of the property management company. This information is also available to government officials acting in an official capacity. If you cannot get this information and if you follow statutory notice procedures, you may be able to terminate your lease or sue for your cost of getting the information, one month's rent plus \$100, court costs and attorney's fees.

### If you have not paid your rent

Most leases allow the management to enter and seize items such as TVs, radios, cameras, sports equipment, certain furniture, etc., for non-payment of rent. Such provision is valid only if it is underlined or in bold print in your

lease. Without a written lease that specifically gives this right of seizure, the manager must go to court to seize the property.

You cannot be permanently locked out of your apartment for failure to pay rent. However, the manager may change the doorlock when your rent is overdue. But advance written notice must be given before the lockout occurs and you must be given the opportunity to pay your past due rent. After the lockout occurs, written notice must be left on the door telling where the key can be picked up at any hour regardless of whether the overdue rent has been paid.

Your electricity may be disconnected in certain cases. Before your electricity can be disconnected, the owner must give you advance notice as provided by Texas law. The owner must also give you an opportunity to pay any past due rent and other charges, and must reconnect the electricity promptly, as provided under the law, once you have paid all past due rent.

You can be sued for unpaid rent and attorney's fees (if the lease so provides). If you have moved prior to the end of your lease term, the amount of any court judgment against you for future, unpaid rents must be reduced by the amount that the next resident pays in rent for your unexpired lease term.

### To help assure return of your security deposit

1. Before you leave, give whatever written notice your lease requires. (Most leases require at least a 30-day written notice). Your security deposit cannot be kept for failure to give such notice unless the provision requiring it is underlined or in bold type in the lease.
2. You must stay for the full term of your lease.
3. You must give written notice of your forwarding address.
4. You must not be delinquent in your rent when you move out.
5. You must leave the premises in a clean condition and abide by any other lease provisions regarding security deposit refund.
6. You cannot deduct the amount of the security deposit from your last month's rent. If you do so, you can be sued for three times the amount of the deposit plus attorney's fees.
7. Go through your apartment or other rental property with the manager to check its condition against the "move-in" inventory checklist. Within 30 days of your move-out, your security deposit or an itemized description of deductions must be mailed to you. If you don't receive a refund or explanation postmarked within the 30-day period, you

may sue for three times the amount illegally held, plus attorney's fees and a \$100 fine.

### If you sign a lease but don't move in

If you sign a lease but don't move into the rental unit by the lease (move in) date, the owner must return your security deposit or rent prepayment if either you or the owner find a replacement resident who is satisfactory to the owner, and if the replacement resident moves into the dwelling on or before the lease commencement date. If the owner secures a satisfactory replacement resident who occupies the dwelling before the lease commencement date of the original resident, the owner may retain or deduct from the security deposit or rent prepayment: (1) a sum agreed to in the lease as a lease cancellation fee; or (2) the actual expenses incurred by the owner in securing the replacement, including a reasonable amount for the owner's time in securing the replacement resident. There is no statutory limit on the amount of the lease cancellation fee or on the amount due for the owner's time.

## Major Steps in the Eviction Process

- 1 The management gives the resident written notice to vacate. If a written lease states so, this notice may be given to the resident just one day before the resident is asked to move out. If a written lease does not state otherwise, the notice must be given at least three days in advance.
- 2 Eviction lawsuit is filed by owner in justice of the peace court.
- 3 Resident is served lawsuit papers by the constable.
- 4 Hearing is held in JP court (shortly after resident is served with copy of the lawsuit).
- 5 If owner wins, constable will evict resident.

Note: If you believe you have a valid defense to the eviction action, you should consider retaining an attorney.