

## SB0147S02 compared with SB0147S01

~~text~~ shows text that was in SB0147S01 but was deleted in SB0147S02.

text shows text that was not in SB0147S01 but was inserted into SB0147S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Patricia W. Jones proposes the following substitute bill:

### RESIDENTIAL RENTERS' DEPOSITS AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Patricia W. Jones**

House Sponsor: ~~text~~ Brad R. Wilson

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#### LONG TITLE

##### General Description:

This bill modifies Title 57, Chapter 17, Residential Renters' Deposits.

##### Highlighted Provisions:

This bill:

- ▶ provides that no later than 30 days after the day on which a renter vacates a rental property, the owner or the owner's agent shall return to the renter the balance of any deposit and the balance of any prepaid rent ~~text~~ and provide an itemized notice of any deductions;
- ▶ establishes a procedure by which a renter may:
  - notify the owner or the owner's agent of the owner or the owner's agent's failure to comply with the provisions of the preceding paragraph; and
  - provide the owner or the owner's agent a five-day opportunity to comply;

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- ▶ provides that if the owner or the owner's agent fails to comply within five days after the day on which a notice is served, the renter may recover the full deposit, the full amount of any prepaid rent, and a civil penalty of \$100; and
- ▶ provides that in an action to enforce compliance with the provisions of this bill, a court shall award ~~{the renter}~~ costs and attorney fees ~~{if:~~

~~\_\_\_\_\_~~ • ~~the renter is}~~ to the prevailing party ~~{; and~~  
~~\_\_\_\_\_~~ • ~~}~~ if the court determines that the ~~{owner or the owner's agent}~~ opposing party  
acted in bad faith.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**57-17-3**, as enacted by Laws of Utah 1981, Chapter 74

REPEALS AND REENACTS:

**57-17-5**, as enacted by Laws of Utah 1983, Chapter 208

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **57-17-3** is amended to read:

#### **57-17-3. Deductions from deposit -- Written itemization -- Time for return.**

(1) Upon termination of [~~the~~] a tenancy, the owner or the owner's agent may apply property or money held as a deposit [~~may be applied, at the owner's or designated agent's option, to~~] toward the payment of [~~accrued~~] rent, damages to the premises beyond reasonable wear and tear, other costs and fees provided for in the contract [~~and~~], or cleaning of the unit. [~~The balance of any deposit and prepaid rent, if any, and a written itemization of any deductions from the deposit, and reasons therefor, shall be delivered or mailed to the renter within 30 days after termination of the tenancy or within 15 days after receipt of the renter's new mailing address, whichever is later. The renter shall notify the owner or designated agent of the location where payment and notice may be made or mailed. If there is damage to the rented premises, this period shall be extended to 30 days.~~]

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(2) No later than 30 days after the day on which a renter vacates and returns possession of a rental property to the owner or the owner's agent, the owner or the owner's agent shall deliver to the renter at the renter's last known address:

(a) the balance of any deposit;

(b) the balance of any prepaid rent; and

(c) if the owner or the owner's agent made any deductions from the deposit or prepaid rent, a written notice that itemizes and explains the reason for each deduction.

(3) If an owner or the owner's agent fails to comply with the requirements described in Subsection (2), the renter may serve the owner or the owner's agent, in accordance with ~~Section 78B-6-805~~ Subsection (4), a notice that:

(a) states:

(i) the names of the parties to the rental agreement;

(ii) the day on which the renter vacated the rental property;

(iii) that the owner or the owner's agent has failed to comply with the requirements described in Subsection (2); and

(vi) the address where the owner or the owner's agent may send the items described in Subsection (2); and

(b) is substantially in the following form:

### TENANT'S NOTICE TO PROVIDE DEPOSIT DISPOSITION

TO: (insert owner or owner's agent's name)

RE: (insert address of rental property)

### NOTICE IS HEREBY GIVEN THAT WITHIN FIVE (5) CALENDAR DAYS

pursuant to Utah Code Sections 57-17-3 et seq., the owner or the owner's agent must provide the tenant, at the address below, a refund of the balance of any security deposit, the balance of any prepaid rent, and a notice of any deductions from the security deposit or prepaid rent as allowed by law.

NOTICE IS FURTHER GIVEN that failure to comply with this notice will require the owner to refund the entire security deposit, the full amount of any prepaid rent, and a penalty of \$100. If the entire security deposit, the full amount of any prepaid rent, and the penalty of \$100 is not tendered to the tenant, and the tenant is required to initiate litigation to enforce the provisions of the statute, the owner may be liable for the tenant's court costs and attorney fees.

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Tenant's Name(s): \_\_\_\_\_

Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

This is a legal document. Please read and comply with the document's terms.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Return of Service

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, I swear and attest that I served this notice in compliance with Utah Code ~~{Sections 78B-6-805 et seq.}~~ Section 57-17-3 by:

~~{Delivering the notice}~~ Delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement ~~{or to the owner's registered agent}~~; ~~{or}~~

~~{Mailing the notice by registered or certified mail addressed to the owner or the owner's agent}~~ Leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement because the owner or ~~{to the owner's registered agent; or~~  
~~After finding no suitable person to serve, posting the notice at~~ the owner's agent was absent from the address provided in the lease agreement;

Affixing a copy in a conspicuous place at the address provided in the lease agreement because a person of suitable age or discretion could not be found at the address provided in the lease agreement; or

Sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement.

The owner's address to which the service was effected is:

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

\_\_\_\_\_ (server's signature)

~~{Self-authentication}~~ Self-Authentication Declaration

Pursuant to Utah Code Section 46-5-101, I declare under criminal penalty of the State of Utah that the foregoing ~~{its}~~ is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_ (server's signature)

(4) A notice described in Subsection (3) shall be served:

(a) (i) by delivering a copy to the owner or the owner's agent personally at the address provided in the lease agreement;

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(ii) if the owner or the owner's agent is absent from the address provided in the lease agreement, by leaving a copy with a person of suitable age and discretion at the address provided in the lease agreement; or

(iii) if a person of suitable age or discretion cannot be found at the address provided in the lease agreement, by affixing a copy in a conspicuous place at the address provided in the lease agreement; or

(b) by sending a copy through registered or certified mail to the owner or the owner's agent at the address provided in the lease agreement;

(5) Within ~~5~~ five business days after the day on which the notice described in Subsection (3) is served, the owner or the owner's agent shall comply with the requirements described in Subsection (2).

Section 2. Section 57-17-5 is repealed and reenacted to read:

**57-17-5. Failure to return deposit or prepaid rent or to give required notice --**

**Recovery of deposit, penalty, costs, and attorney fees.**

(1) If an owner or the owner's agent fails to comply with the requirements described in Subsection 57-17-4(4), the renter may:

(a) recover from the owner:

(i) if the owner or the owner's agent failed to timely return the balance of the renter's deposit, the full deposit;

(ii) if the owner or the owner's agent failed to timely return the balance of the renter's prepaid rent, the full amount of the prepaid rent; and

(iii) a civil penalty of \$100; and

(b) file an action in district court to enforce compliance with the provisions of this section.

(2) ~~If a renter files~~ In an action ~~in accordance with~~ under Subsection (1)(b), the court shall award ~~the renter~~ costs and attorney fees ~~if~~:

~~(a) the renter is~~ to the prevailing party ~~and~~

~~(b) if~~ the court determines that the ~~owner or the owner's agent~~ opposing party acted in bad faith.

(3) A renter is not entitled to relief under this section if the renter fails to serve a notice in accordance with Subsection 57-17-3(3).

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(4) This section does not preclude an owner or a renter from recovering other damages to which the owner or the renter is entitled.