

Dear Realtor:

If you are running the property management through your company, you will need to speak with your managing broker about handling the rental deposit. Under the Landlord and Tenant Act (which only applies to certain counties in Tennessee), all deposits must be kept in a separate account which only holds deposits. In addition, the information on where those funds are held must be disclosed to the tenant. The Landlord and Tenant Act only applies to certain counties which have populations over 68,000. Counties which are included in this are Shelby, Davidson, Knox, Hamilton, Anderson, Blount, Bradley, Madison, Maury, Montgomery, Sevier, Sumner, Sullivan, Rutherford, Williamson, Washington and Wilson. If you are in a county which is governed by the LTA, I highly recommend that you speak to an attorney to get some assistance in drafting the lease agreements since there are many things which must be included in the lease under the law.

That being said, if the property in question is not in one of the counties governed by the LTA, I STRONGLY recommend that you still place these funds in a separate account that is only used for deposits. If you run this through the company, you would have to run it through the escrow account at the very least.

Here is the section which deals specifically with deposits:

**66-28-301. Security deposits.**

**(a)** All landlords of residential property requiring security deposits prior to occupancy are required to deposit all tenants' security deposits in an account used only for that purpose, in any bank or other lending institution subject to regulation by the state of Tennessee or any agency of the United States government. Prospective tenants shall be informed of the location of the separate account.

**(b)** Within ten (10) business days of the termination of occupancy, but prior to any repairs or cleanup of the premises:

**(1)** The landlord shall inspect the premises and compile a comprehensive listing of any damage to the unit that is the basis for any charge against the security deposit and the estimated dollar cost of repairing the damage. The tenant shall then have the right to inspect the premises to ascertain the accuracy of the listing. The landlord and the tenant shall sign the listing, which signatures shall be conclusive evidence of the accuracy of the listing. If the tenant refuses to sign the listing, the tenant shall state specifically in writing the items on the list to which the tenant dissents, and shall sign the statement of dissent; or

**(2)** If the tenant has moved or is otherwise inaccessible to the landlord, and, if at least ten (10) days before the lease termination date, the landlord has given the tenant written notice of the tenant's right to schedule a mutual inspection of the subject premises with the landlord during normal business hours and the tenant has not contacted the landlord prior to vacating the premises or the tenant has waived in writing the right of inspection, the landlord shall then inspect the premises and compile a comprehensive listing of any damage to the unit that is the basis for any charge against the security deposit and the estimated dollar cost of repairing the damage. The landlord shall then mail a copy of the listing of damages and estimated cost of repairs to the tenant at the tenant's last known mailing address. After mailing the copy of the

listing of damages and estimated cost of repairs to the tenant, the landlord may begin to prepare the unit for occupancy.

**(c)** No landlord shall be entitled to retain any portion of a security deposit if the security deposit was not deposited in a separate account as required by subsection (a) and if the final damage listing required by subsection (b) is not provided.

**(d)** A tenant who disputes the accuracy of the final damage listing given pursuant to subsection (b) may bring an action in a circuit or general sessions court of competent jurisdiction of this state. The tenant's claim shall be limited to those items from which the tenant specifically dissented in accordance with the listing or specifically dissented in accordance with subsection (b); otherwise the tenant shall not be entitled to recover any damages under this section.

**(e)** Should a tenant vacate the premises with unpaid rent or other amounts due and owing, the landlord may remove the deposit from the account and apply the moneys to the unpaid debt.

**(f)** In the event the tenant leaves not owing rent and having any refund due, the landlord shall send notification to the last known or reasonable determinable address, of the amount of any refund due the tenant. In the event the landlord shall not have received a response from the tenant within sixty (60) days from the sending of such notification, the landlord may remove the deposit from the account and retain it free from any claim of the tenant or any person claiming in the tenant's behalf.

**(g)** This section does not preclude the landlord or tenant from recovering other damages to which such landlord or tenant may be entitled under this chapter.

**(h) (1)** Notwithstanding the provisions of subsection (a), all landlords of residential property shall be required to notify their tenants at the time such persons sign the lease and submit the security deposit, of the location of the separate account required to be maintained pursuant to this section, but shall not be required to provide the account number to such persons, nor shall they be required to provide such information to a person who is a prospective tenant.

**(2)** The provisions of subdivision (h)(1) do not apply in counties having a population according to the 1990 federal census or any subsequent federal census, of: not less than 80,000 nor more than 83,000; not less than 92,200 nor more than 92,500; not less than 118,400 nor more than 118,700; and not less than 140,000 nor more than 145,000.