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10/2/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1232

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1232

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/27/03

Tape Number	Side A	Side B	Meter #
1	x		52.5-end
1		x	0.00-13.0
4	x		6.9-10.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: Chairman Keiser opened the hearing on HB 1232. Rep. Nancy Johnson, on behalf of Rep. Maragos, introduced Tom Wentz, Jr. who presented HB 1232, which related to security deposits for lease of real property and residential dwellings, (See attached) This bill allows that security deposits still be held for the benefit of the tenant but that they be held directly by the landlord. The reason for this proposed bill is to lessen the onerous accounting burden required for compliance under current law.

Rep. Ekstrom: What is the rate of forfeiture? If *shall* is changed to *may* on line 9, it would be permissive for a real estate trust or landlord could hold the money in a FDIC account or hold the money for the benefit of the tenant. Could we do both?

Wentz: I can't comment industry wide but about 15% of IRET's security deposits are forfeited. I believe changing *shall* to *may* would make that possible.

Rep. Dosch: How would you reconcile the difference between the 3% to 1% interest rate?

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Deanna Hall
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1/21/03
Date

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1232

Hearing Date 1/27/03

Wentz: This is based on a Minnesota statute on which we based our legislation. Security deposit interest is only payable for residency of 9 months or longer.

Rep. Forteth: What are reporting requirements for the lessor?

Wentz: At the end of the lease, the landlord must provide an accounting and a damage statement or return to the tenant on a timely basis.

Rep. Johnson: What is Minnesota interest rate?

Wentz: Minnesota's rate is currently set at 3%, in 2004 it increases to 4%.

Rep. Ekstrom: If we decide to amend, we must be specific on lines 11 & 12, in terms of rate of interest that it is tied to this kind of arrangement, not the passbook rate of interest.

Rocky Gordon, Bismarck property owner and appearing today on behalf of ND Apartment Association, appeared in opposition to HB 1232. He stated that he is not strongly opposed to the first portion of the bill but would rather see a benchmark or no interest at all.

Claus Lembke, ND Association of Realtors, concurred with Mr. Lembke's points.

As there was no one else present to testify, the hearing was closed.

Prior to afternoon hearings, **Chairman Keiser** called for committee work on HB 1232.

Rep. Dosch will carry this bill on the floor. He said that we ought to redirect the amount of interest paid on the account rather than putting in a set amount or new legislation will come before this committee each session. The law stipulates that it must be an FDIC savings account, the bookkeeping is cumbersome. May it should be changed to be either a checking or a savings account.

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Doreen Hall
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1/27/03
Date

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House Industry, Business and Labor Committee

Bill/Resolution Number HB 1232

Hearing Date 1/27/03

Rep. Froese: If we change "shall" to "may" in line 9 it would allow a landlord do one or the other.

Rep. Dosch: So the amendment will change the "shall" to "may" and we'll index the rate of interest to a federal treasury note.

Committee work was concluded for today.

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Dan Hall
Operator's signature

1/27/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1232

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 10, 2003

Tape Number	Side A	Side B	Meter #
1	X		1920-2640

Committee Clerk Signature

Elizabeth R. Linn

Minutes: Chair Kelser: Opened discussion on HB 1232. Discussed amendments handed out by

Rep. Dosch. Keeps money in insured account. Money can be in savings or checking account. No longer requires account to be establish solely for security deposit. Skirts the interest rate issue.

Rep. Klein moved to adopt amendments. Seconded by Rep. Zaiser.

Rep. Severson moved to recommend DP as amended. Seconded by Rep. Klein

Vote: 14 Yes 0 No 0 Absent and not voting Carrier: Dosch

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Dorena Hall
Operator's Signature

10/2/03
Date

30406.0101
Title.0200

Adopted by the Industry, Business and Labor
Committee

February 10, 2003

VR
2/11/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1232 IBL 2-12-03

Page 1, line 9, remove the overstrike over "~~deposit the money in a federally insured~~"

Page 1, line 10, remove the overstrike over "~~interest-bearing savings or~~", after "passbook"
Insert "checking", and remove the overstrike over "~~account~~"

Page 1, line 11, remove "~~hold the money~~" and remove ". The interest on the deposit is"

Page 1, line 12, remove "~~deemed to be a simple noncompounded interest rate of three percent
per annum~~"

Renumber accordingly

Page No. 1

30406.0101

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Operator's Signature

Deanna G. Galt

Date

10/2/03

Date: 2/10/03
Roll Call Vote #: |

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1232

House INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

30406 .0101
-0200

Action Taken

DP as amended

Motion Made By

Severson

Seconded By

Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Boe	✓	
Vice-Chair Severson	✓		Ekstrom	✓	
Dosch	✓		Thorpe	✓	
Froseth	✓		Zaiser	✓	
Johnson	✓				
Kasper	✓				
Klein	✓				
Nottestad	✓				
Ruby	✓				
Tieman	✓				

Total (Yes)

14

No

0

Absent

Floor Assignment

Dosch

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature

Dan Hallmark

Date

10/2/03

REPORT OF STANDING COMMITTEE (410)
February 12, 2003 8:26 a.m.

Module No: HR-27-2356
Carrier: Dosch
Insert LC: 30406.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1232: Industry, Business and Labor Committee (Rep. Kelsor, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1232 was placed
on the Sixth order on the calendar.

Page 1, line 9, remove the overstrike over "~~deposit the money in a federally insured~~"

Page 1, line 10, remove the overstrike over "~~interest-bearing savings or~~", after "passbook"
insert "checking", and remove the overstrike over "~~account~~"

Page 1, line 11, remove "hold the money" and remove ". The interest on the deposit is"

Page 1, line 12, remove "deemed to be a simple noncompounded interest rate of three percent
per annum"

Renumber accordingly

Deanna Hall
Operator's Signature

10/2/03
Date

2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1232

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10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1232

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-05-03

Tape Number	Side A	Side B	Meter #
1	xxx		5200-end
1		xxx	0-636
Committee Clerk Signature <i>Lisa Hubbard</i>			

Minutes: Chairman Mutch opened the hearing on HB 1232. All Senators were present.

HB 1232 relates to security deposits for the lease of real property or a dwelling.

Testimony in support of HB 1232

Representative Andrew Maragos introduced the bill. He read the testimony of Thomas Wentz Jr, of Minot. See attached.

Rocky Gordon, property owner in Bismarck, spoke in support of the bill. He is a member of the North Dakota Apartment Association.

Senator Espegard: How do you compute a tenants deposit return after five years?

Rocky Gordon: We figure the interest and write a check out after we transfer the funds from a separate account, which is really an extra step that is not needed.

Senator Heltkamp: Do you ever just give the deposit back?

Rocky Gordon: No, because if we do it for one tenant, we have to do it for all of them. It wouldn't be fair to the other tenants.

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Operator's Signature

10/2/03
Date

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1232

Hearing Date 03-05-03

There was no opposition.

Hearing was closed.

Senator Krebsbach moved a DO PASS. Senator Nething seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Carrier: Senator Krebsbach

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Operator's Signature

10/2/03
Date

Date: 3-05-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate 1232 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 12

Action Taken Do Pass

Motion Made By Krebsbach Seconded By Nothing

Senators	Yes	No	Senators	Yes	No
Sen. Mutch, Chairman	X				
Sen. Klein, Vice Chairman	X				
Sen. Krebsbach	X				
Sen. Nothing	X				
Sen. Heitkamp	X				
Sen. Every	X				
Sen. Espgaard	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Krebsbach

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 5, 2003 2:45 p.m.

Module No: SR-39-4026
Carrier: Krebebach
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1232, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1232 was placed on the Fourteenth order on the calendar.

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Dan Krebebach
Operator's Signature

10/2/03
Date

2003 TESTIMONY

HB 1232

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Dennis Hall
Operator's Signature

10/2/03
Date

House Bill 1232

Written Statement in Support

By: Thomas A Wentz Jr Minot

My name is Tom Wentz Jr. I reside in Minot at 1334 Hlawatha St. I am a Vice President and General Counsel for Investors Real Estate Trust, or IRET. IRET is a Real Estate Investment Trust based in Minot and founded in 1970. The company is publicly traded on the Nasdaq National Market. IRET currently conducts real estate activities in 13 states, including North Dakota. In North Dakota, IRET owns and operates over 2500 apartment units throughout the state. On any given day, IRET is holding approximately \$900,000.00 of security deposits related to its apartment units in North Dakota.

As a residential landlord, IRET is subject to the current security deposit statute requiring all residential security deposits be held by the landlord in a federally insured savings account as well as pay interest on the security deposit equal to a passbook savings rate. House Bill 1232 modifies this requirement to allow the landlord to directly hold the security deposit for the benefit of the tenant and sets the rate of interest.

I am appearing before the committee today to urge a "Do Pass" recommendation for HB 1232 from this committee and answer any questions the committee may have. My recommendation is based on the following reasons:

1) The current law creates administrative and accounting burdens for large landlords. In order for IRET to comply with the current law, security deposits must be distributed among different financial institutions in \$90,000 chunks due to the \$100,000 FDIC depositor limit. This results in the IRET accounting staff tracking and maintaining at least a dozen additional passbook or savings accounts. Additionally, IRET has yet to find a federally insured passbook or savings account that provides check writing. As a result, in order to return a security deposit, IRET must first withdraw the security deposit from the applicable account including any interest earned, then deposit the money into IRET's operating checking account. Each security deposit must be tracked according to the account it was deposited into originally since the rate of interest paid by each federally insured financial institution is not uniform, but varies. In fact, not only does the rate vary between financial institutions, but the rate of interest paid adjusts monthly or in some cases more frequently. Such adjustments create an additional accounting burdens by requiring a landlord to track and apply these interest rate changes.

2) Current North Dakota law is different from the law in surrounding states. IRET currently owns and operates apartments in Minnesota, South Dakota and Montana. Unlike North Dakota, these three states do not require a landlord to deposit a tenant's security deposit

Thomas A. Wentz Jr.
Operator's Signature

10/2/03
Date

page 2

House Bill 1232

Written Statement in Support

By: Thomas A Wentz Jr Minot

into a federally insured account solely for security deposits. In fact, with the exception of Minnesota, neither South Dakota or Montana require the landlord to pay interest on the security deposit. This difference requires IRET to operate and maintain a completely separate security deposit accounting system for its operations in North Dakota.

3. Changing the law creates no additional risk to a tenant's security deposit. While there may be good intentions behind the current requirement, these do not outweigh the negative business impacts. Over the years, most states have modified residential security deposit statutes to remove the separate federally insured account requirement as well as the payment of interest. Compared to other North Dakota industries, this is the only business activity in North Dakota for which I could find such a requirement. A number of other industries are statutorily allowed to collect security deposits with no corresponding requirement that the deposit be held in an interest bearing federally insured account solely for such deposits, i.e. utility companies, vehicle leases, and rental cars. Whether held in a separate account or as a general obligation of the landlord, a security deposit legally is still considered the property of the tenant and is required to be treated as such by any court of law or bankruptcy court.

Based on the reasons outlined above, I request the committee give HB 1232 a do pass recommendation.

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Donna Hallmark
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10/2/03
Date

House Bill 1232
Written Statement in Support
By: Thomas A. Wentz, Jr., Minot
Lobby # 262 for 2002-2003

First, I apologize for not appearing personally before the committee, but a prior schedule commitment made my attendance impossible. I am Vice President and General Counsel for Investors Real Estate Trust, or IRET. IRET is a Real Estate Investment Trust based in Minot and founded in 1970. The company is publicly traded on the Nasdaq National Market. IRET currently conducts real estate activities in 13 states, including North Dakota. In North Dakota, IRET owns and operates over 2500 apartment units throughout the state. On any given day, IRET is holding approximately \$900,000.00 of security deposits related to its apartment units in North Dakota.

As a residential landlord, IRET is subject to the current security deposit statute requiring all residential security deposits be held by the landlord in a federally insured savings account as well as pay interest on the security deposit equal to a passbook savings rate. House Bill 1232 modifies this requirement to allow the landlord to directly hold the security deposit for the benefit of the tenant and sets the rate of interest.

I am submitting written testimony to the committee in support of a "Do Pass" recommendation for HB 1232 as amended. My recommendation is based on the following reasons:

1. The current law creates administrative and accounting burdens for large landlords. IRET has yet to find a federally insured passbook or savings account that provides check writing. As a result, in order to return a security deposit, IRET must first withdraw the security deposit from the applicable account including any interest earned, and then deposit the money into IRET's operating checking account.
2. Current North Dakota law is different from the law in surrounding states. IRET currently owns and operates apartments in Minnesota, South Dakota and Montana. Unlike North Dakota, these three states do not require a landlord to deposit a tenant's security deposit into an account solely for security deposits. In fact, with the exception of Minnesota, neither South Dakota or Montana requires the landlord to pay interest on the security deposit. This difference requires IRET to operate and maintain a completely separate security deposit accounting system for its operations in North Dakota.

G:\twentz\IRET Security Deposits\Written Statement re HB 1232.doc

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Thomas A. Wentz, Jr.
Operator's Signature

10/2/03
Date

Page 2
House Bill 1232
Written Statement in Support
By: Thomas A. Wentz, Jr., Mlnot

3. Changing the law creates no additional risk to a tenant's security deposit. While there may be good intentions behind the current requirement, these do not outweigh the negative business impacts. Over the years, most states have modified residential security deposit statutes to remove the separate account requirement. Compared to other North Dakota industries, this is the only business activity in North Dakota for which I could find such a requirement. A number of other industries are statutorily allowed to collect security deposits with no corresponding requirement that the deposit be held in an account solely for such deposits, i.e. utility companies, vehicle leases, and rental cars. Whether held in a separate account or as a general obligation of the landlord, a security deposit legally is still considered the property of the tenant and is required to be treated as such by any court of law or bankruptcy court.

Based on the reasons outlined above, I request the committee give HB 1232 a do pass recommendation. Thank you for your time.

G:\twentz\IRET Security Deposits\Written Statement re HB 1232.doc

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