

Floor Amendment to HB 1336-FN

1 Amend the bill by replacing sections 1-5 with the following:

2

3 1 New Subdivision; Regulated Conditional Deposits. Amend RSA 540-A by inserting after  
4 section 8 the following new subdivision:

5

Regulated Conditional Deposits

6

540-A:9 Regulated Conditional Deposits.

7

8 I. A regulated conditional deposit shall be treated as part of the security deposit for purposes  
9 of RSA 540-A:6 through RSA 540-A:8, except as otherwise specifically provided. Landlords may  
10 accept payment of a regulated conditional deposit in installments.

11

12 II. An applicant may offer, and a landlord may accept or suggest, a regulated conditional  
13 deposit if an applicant fails to meet the landlord's approval criteria, provided that the unmet criteria  
14 were disclosed prior to, or concurrently with, the submission of the rental application and payment  
15 of any application fees, and further provided that at least one of the following is true:

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17 (a) The applicant's credit score fails to meet the landlord's requirements, and the  
18 landlord's minimum credit score requirement does not exceed 650.

19

20 (b) The applicant's combined verifiable household gross income from lawful sources, for  
21 any size household exceeds 350 percent of the federal poverty guidelines for a household size of 2 as  
22 reported annually by the United States Department of Health and Human Services and fails to meet  
23 the landlord's requirements, provided the landlord's minimum gross income requirement does not  
24 exceed 3 times the monthly rent.

25

26 (c) The applicant fails to meet the landlord's requirements regarding prior eviction  
27 proceedings, excluding cases dismissed without judgment against the applicant and excluding cases  
28 where the applicant provides a verifiable decision from the court that clearly states the basis for the  
29 eviction was for one of the following reasons:

30

(1) Lead abatement pursuant to RSA 540:2, II(f);

31

(2) Expiration of the lease pursuant to RSA 540:2, II(i); or

32

33 (3) Other good cause pursuant to RSA 540:2, II(e), where the other good cause was  
34 the landlord's intent to renovate the unit, to remove the unit from the rental market, or to transfer  
35 or sell the property absent tenants; the landlord's intent to lease the unit to relatives; the applicant's  
36 refusal to agree to a rent increase on a prior tenancy; or other reasons that are clearly not due to the  
37 fault of the applicant.



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1 \_\_\_(c) The applicant fails to meet the landlord’s requirements regarding prior eviction proceedings,  
2 excluding cases dismissed without judgment against the applicant, and excluding cases where the  
3 applicant provides a verifiable decision from the court that clearly states the basis for the eviction  
4 was for one of the following reasons:

5 (1) Lead abatement pursuant to RSA 540:2, II(f);

6 (2) Expiration of the lease pursuant to RSA 540:2, II(i); or

7 (3) Other good cause pursuant to RSA 540:2, II(e), where the other good cause was the landlord’s  
8 intent to renovate the unit, to remove the unit from the rental market, or to transfer or sell the  
9 property absent tenants; landlord’s intent to lease the unit to relatives; the applicant’s refusal to  
10 agree to a rent increase on a prior tenancy; or other reason which is clearly not due to fault of the  
11 applicant.

12 \_\_\_(d) The applicant fails to meet the landlord’s requirements regarding outstanding unpaid  
13 judgments issued within 7 years of the application, unless the applicant verifiably demonstrates that  
14 he or she is in compliance with all orders or agreements for periodic payments on the judgments and  
15 has maintained such compliance for the earlier of the preceding 12 months or until the judgments  
16 were paid in full.

17 \_\_\_(e) The prospective landlord was unable to verify present landlord reference and most recent prior  
18 landlord reference.

19 Regulated Conditional Deposit Re-Screening:

20 RSA 540-A:9, VI. A tenant who provided a regulated conditional deposit and who has not been in  
21 material breach of the lease, including, but not limited to, nonpayment or late payments of monies  
22 owed, may submit a written request for re-screening at their own expense no more than once every 6  
23 months in the case of RSA 540-A:9, II(a)-(d), and no more than once in any 12-month period in the  
24 case of RSA 540-A:9, II(e). If a tenant establishes that they meet the landlord’s standard rental  
25 criteria, the landlord shall, at its option, issue a refund of any regulated conditional deposit or apply  
26 any regulated conditional deposit to the tenant’s future rental obligations within 30 days of the  
27 tenant’s complete submission for re-screening.

28 The cost of re-screening is \$\_\_\_\_\_.

29 Landlord has provided the regulated conditional deposit notices above.

30 Tenant acknowledges receipt of the regulated conditional deposit notices above.

31 Tenant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

32 Landlord Signature: \_\_\_\_\_ Date: \_\_\_\_\_

33 VI. A tenant who provided a regulated conditional deposit and who has not been in material  
34 breach of the lease, including, but not limited to, nonpayment or late payments of monies owed, may  
35 submit a written request for re-screening at their own expense no more than once every 6 months in  
36 the case of RSA 540-A:9, II(a)-(d), and no more than once in any 12-month period in the case of RSA  
37 540-A:9, II(e). If a tenant establishes that they meet the landlord’s standard rental criteria, the

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1 landlord shall, at its option, issue a refund of any regulated conditional deposit or apply any  
2 regulated conditional deposit to the tenant's future rental obligations within 30 days of the tenant's  
3 complete submission for re-screening.

4 VII. The administrative office of the courts shall, on a quarterly basis, report for each circuit  
5 court:

6 (a) The number of writs of summons filed in possessory actions;

7 (b) The number of notices of default and the number of notices of judgments issued in favor  
8 of the landlord, each broken out by the grounds for eviction set forth in RSA 540:2, II; and

9 (c) The number of writs of possession issued in possessory actions.

10 2 New Subparagraph; Prohibited Practices and Security Deposits; Security Deposits; Remedies.  
11 Amend RSA 540-A:8, I by inserting after subparagraph (b) the following new subparagraph:

12 (c) Any landlord who does not comply with RSA 540-A:9 shall be deemed to have violated  
13 RSA 358-A:2 and be subject solely to the remedies set forth in RSA 358-A:10, I.

14 3 Prohibited Practices and Security Deposits; Security Deposits; Procedure. Amend RSA 540-  
15 A:6, I(a) to read as follows:

16 I.(a) [A] ***Except as provided for in RSA 540-A:9 and RSA 540-A:5, V, a*** landlord  
17 shall not demand or receive any security deposit in an amount or value in excess of one month's rent  
18 [~~or \$100, whichever is greater~~]. Nothing in this section shall prohibit a landlord from entering into a  
19 written lease that requires the quarterly or less frequent payment of rent; provided, however, that  
20 the security deposit received in addition to the initial rent payment may not exceed the equivalent of  
21 one month's rent.

22 4 Prohibited Practices and Security Deposits; Security Deposits; Return of Security Deposit.  
23 Amend RSA 540-A:7, I to read as follows:

24 I.(a) Except as provided in RSA 540-A:6, IV(c) ***and RSA 540-A:7, I(b)***, a landlord shall  
25 return a security deposit to a tenant and pay the interest due, if any, within 30 days from the  
26 termination of the tenancy. If there are any damages to the premises, excluding reasonable wear  
27 and tear, the landlord may deduct the costs of repair from the security deposit. The landlord shall  
28 provide the tenant with a written, itemized list of any damages for which the landlord claims the  
29 tenant is liable, which shall indicate with particularity the nature of any repair necessary to correct  
30 any damage and satisfactory evidence that repair necessary to correct these damages has been or  
31 will be completed. Satisfactory evidence may include, but not be limited to, receipts for purchased  
32 repair materials and labor estimates, bills or invoices indicating the actual or estimated cost thereof.

33 ***(b) If any portion of a security deposit was paid by a third party on behalf of the***  
34 ***tenant, the landlord may return any refundable portion of such contribution to the third***  
35 ***party in accordance with the third party's written instructions, provided a copy of such***  
36 ***instructions was delivered to the tenant in writing or by electronic communication prior to***  
37 ***the commencement of the tenancy. Absent any agreement to the contrary, the landlord***

1 *shall make any deductions first from tenant-paid funds and second from any known third-*  
2 *party funds. The landlord shall furnish an itemized statement of any deductions from*  
3 *third-party funds within 30 days of a written request by the third party. A landlord who, in*  
4 *good faith, apportions third-party funds in compliance with this section shall be*  
5 *discharged of liability related to such apportionment.*

6 5 Prohibited Practices and Security Deposits; Security Deposits; Definitions. Amend RSA 540-  
7 A:5, II to read as follows:

8 II. "Security deposit" means all funds in excess of the monthly rent which are transferred  
9 from the tenant to the landlord for any purpose. *An advance payment of rent is not a security*  
10 *deposit and shall not be required to be held in escrow, trust, or reserve. A landlord may*  
11 *accept advance rent payments provided that such payments are applied to uninterrupted,*  
12 *consecutive rental periods, beginning with the first rental period that has not yet been*  
13 *paid.*

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AMENDED ANALYSIS

This bill allows for the use of regulated conditional deposits by landlords and tenants and clarifies that advance rental payments need not be held in escrow, a trust, or a reserve account.